

110TH CONGRESS  
1ST SESSION

# H. R. 2337

To promote energy policy reforms and public accountability, alternative energy and efficiency, and carbon capture and climate change mitigation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2007

Mr. RAHALL introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture and Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote energy policy reforms and public accountability, alternative energy and efficiency, and carbon capture and climate change mitigation, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Energy Policy Reform  
5       and Revitalization Act of 2007”.

6       **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

## TITLE I—ENERGY POLICY ACT OF 2005 REFORMS

- Sec. 101. Cost Recovery.
- Sec. 102. Repeal of deadline for consideration of applications for permits.
- Sec. 103. Energy rights-of-way corridors on Federal land.
- Sec. 104. Oil shale and tar sands leasing.
- Sec. 105. Repeal of rebuttable presumption regarding application of categorical exclusion under NEPA for oil and gas exploration and development activities.
- Sec. 106. Best management practices.
- Sec. 107. Federal consistency appeals.

## TITLE II—FEDERAL ENERGY PUBLIC ACCOUNTABILITY, INTEGRITY, AND PUBLIC INTEREST

### Subtitle A—Accountability and Integrity in the Federal Energy Program

- Sec. 201. Limitations on royalty in-kind.
- Sec. 202. Audits.
- Sec. 203. Fines and penalties.

### Subtitle B—Amendments to Federal Oil and Gas Royalty Management Act of 1982

- Sec. 211. Amendments to definitions.
- Sec. 212. Interest.
- Sec. 213. Obligation period.
- Sec. 214. Tolling agreements and subpoenas.
- Sec. 215. Liability for royalty payments.

### Subtitle C—Public Interest in the Federal Energy Program

- Sec. 221. Surface owner protection.
- Sec. 222. Onshore oil and gas reclamation and bonding.
- Sec. 223. Protection of water resources.
- Sec. 224. Due diligence fee.

### Subtitle D—Ensuring Safety of Wildlife With Respect to Wind Energy

- Sec. 231. Standards and requirements.
- Sec. 232. Certification of compliance.
- Sec. 233. Penalties.
- Sec. 234. Relationship to other statutes.
- Sec. 235. Definitions.

### Subtitle E—Enhancing Energy Transmission

- Sec. 241. Energy transmission service offered by Power Marketing Administrations.
- Sec. 242. Power Marketing Administrations report.

## TITLE III—ALTERNATIVE ENERGY AND EFFICIENCY

- Sec. 301. State OCS alternative energy planning.
- Sec. 302. Canal-side power production at Bureau of Reclamation projects.
- Sec. 303. Increasing energy efficiencies for water desalination.
- Sec. 304. Green building leadership program.

- Sec. 305. Green concessions management program.
- Sec. 306. Federal hydropower production facilities inventory and map.
- Sec. 307. Establishing a pilot program for the development of strategic solar reserves on Federal lands.
- Sec. 308. OTEC regulations.
- Sec. 309. Biomass utilization pilot program.

#### TITLE IV—CARBON CAPTURE AND CLIMATE CHANGE MITIGATION

##### Subtitle A—Geological Sequestration Assessment

- Sec. 401. Short title.
- Sec. 402. National assessment.

##### Subtitle B—Terrestrial Sequestration Assessment

- Sec. 421. Requirement to conduct an assessment.
- Sec. 422. Methodology.
- Sec. 423. Completion of assessment and report.

##### Subtitle C—Sequestration Activities

- Sec. 431. Carbon dioxide storage inventory.
- Sec. 432. Framework for geological carbon sequestration on Federal lands.

##### Subtitle D—Wildlife Programs

#### CHAPTER 1—NATIONAL POLICY AND STRATEGY

- Sec. 441. Short title.
- Sec. 442. National policy on wildlife and global warming.
- Sec. 443. Definitions.
- Sec. 444. National strategy.
- Sec. 445. Advisory board.
- Sec. 446. Authorization of appropriations.

#### CHAPTER 2—STATE AND TRIBAL WILDLIFE GRANTS PROGRAM

- Sec. 451. State and Tribal Wildlife Grants Program.

##### Subtitle E—Miscellaneous

- Sec. 461. Climate Change Adaptability Intra-Governmental Panel.
- Sec. 462. Ocean Policy and Global Warming Program.
- Sec. 463. Planning for climate change in the coastal zone.
- Sec. 464. Enhancing climate change predictions.
- Sec. 465. NOAA report on climate change effects; preparation assistance.

# 1     **TITLE I—ENERGY POLICY ACT** 2                     **OF 2005 REFORMS**

## 3     **SEC. 101. COST RECOVERY.**

- 4             (a) REPEAL.—Subsection (c) of section 35 of the
- 5     Mineral Leasing Act (30 U.S.C. 191) is repealed.

1 (b) REPEAL OF PROHIBITION ON FEE INCREASES.—

2 Subsection (i) of section 365 of the Energy Policy Act of  
3 2005 (42 U.S.C. 15924) is repealed.

4 (c) COST RECOVERY.—

5 (1) IN GENERAL.—Within 180 days after the  
6 date of enactment of this Act, the Secretary of the  
7 Interior shall promulgate a rule to impose fees to re-  
8 cover costs incurred by the Secretary in the proc-  
9 essing of permits to conduct energy production-re-  
10 lated activities on Federal lands.

11 (2) FEE TERMS.—Such fees—

12 (A) shall be market-based;

13 (B) shall be assessed for Government serv-  
14 ices;

15 (C) shall cover all Federal activities relat-  
16 ing to energy development on Federal lands  
17 that convey benefits to recipients beyond those  
18 accruing to the general public to recover the full  
19 cost to the Federal Government for providing  
20 specific benefits;

21 (D) shall be limited to the Secretary's  
22 costs of issuing a permit, including necessary  
23 environmental documentation, on-site moni-  
24 toring, and permit enforcement;

1 (E) shall be based upon the actual per-  
 2 sonnel (including law enforcement), vehicle,  
 3 travel, and material costs required to issue, ad-  
 4 minister, and monitor a permit; and

5 (F) shall be collected in advance of, or si-  
 6 multaneously with, the rendering of services un-  
 7 less appropriations and authority are provided  
 8 in advance to allow reimbursable services.

9 **SEC. 102. REPEAL OF DEADLINE FOR CONSIDERATION OF**  
 10 **APPLICATIONS FOR PERMITS.**

11 Subsection (p) of section 17 of the Mineral Leasing  
 12 Act (30 U.S.C. 226) is repealed.

13 **SEC. 103. ENERGY RIGHTS-OF-WAY CORRIDORS ON FED-**  
 14 **ERAL LAND.**

15 (a) REPEAL OF REQUIREMENTS TO DESIGNATE EN-  
 16 ERGY RIGHTS-OF-WAY CORRIDORS ON FEDERAL LAND.—  
 17 The Energy Policy Act of 2005 is amended—

18 (1) by repealing section 368 (42 U.S.C.15926);

19 and

20 (2) in the table of contents in section 1(b) by  
 21 striking the item relating to that section.

22 (b) STUDY.—

23 (1) STUDY.—Not later than 18 months after  
 24 the date of enactment of this Act, the Secretary of  
 25 Agriculture, the Secretary of Commerce, the Sec-

1       retary of Defense, the Secretary of Energy, and the  
2       Secretary of the Interior (in this subsection referred  
3       to collectively as “the Secretaries”) shall, in con-  
4       sultation with affected States, complete a study of—

5               (A) congestion and constraints in trans-  
6               mission of electricity, oil, gas, and hydrogen;

7               (B) barriers to access for transmission  
8               from renewable energy sources, such as wind  
9               energy and solar energy; and

10              (C) the need for energy corridors on public  
11              lands to address identified congestion or con-  
12              straints.

13       (2) CONSIDERATIONS.—In performing the  
14       study, the Secretaries—

15              (A) shall take into account the studies of  
16              electrical transmission congestion completed  
17              under section 216(a)(1) of the Federal Power  
18              Act (16 U.S.C. 824(p)(a)(1)), other projects  
19              authorized or under consideration on public  
20              lands and such projects outside public lands,  
21              and alternatives, individually and in concert,  
22              that could be implemented to address the needs  
23              identified, including an analysis of demand re-  
24              duction, available new technology, and distrib-  
25              uted generation measures that could be taken;

1 (B) shall not consider as available for des-  
2 ignation as corridors, any area that is—

3 (i) within one mile of any place des-  
4 ignated or otherwise identified by State or  
5 Federal law or any applicable Federal,  
6 State, or local government land use plan  
7 for recognition or protection of scenic, nat-  
8 ural, cultural, or historic resources;

9 (ii) within one mile of any place pro-  
10 posed for formal protection similar to that  
11 described in subparagraph (A), in any  
12 pending Federal, State, or local legislation;  
13 or

14 (iii) in a sensitive ecological area, in-  
15 cluding any area that is designated as crit-  
16 ical habitat under the Endangered Species  
17 Act of 1973 or otherwise identified as sen-  
18 sitive or crucial habitat, including seasonal  
19 habitat, by the United States Fish and  
20 Wildlife Service, by a State agency respon-  
21 sible for managing wildlife or wildlife habi-  
22 tat, or in a Federal, State, or local land  
23 use plan;

24 (C) identify opportunities to mitigate to  
25 the maximum extent practicable the potential

1 impact of designating energy corridors, and of  
2 the reasonably foreseeable uses of those cor-  
3 ridors for power lines, pipelines, and other  
4 transmission facilities, on natural, scenic, cul-  
5 tural, and historic values and areas referred to  
6 in subparagraph (B), the protection of which is  
7 in the national interest, including opportunities  
8 to minimize the width of corridors, limiting the  
9 types and numbers of uses of corridors, and  
10 placement of facilities underground; and

11 (D) identify opportunities to improve ac-  
12 cess to the national electric power grid for gen-  
13 erators of renewable energy, such as wind and  
14 solar.

15 (3) UPDATES.—The Secretaries shall periodi-  
16 cally update the results of the study as they consider  
17 appropriate.

18 (4) REPORTS.—After considering recommenda-  
19 tions from interested persons (including an oppor-  
20 tunity for comment from the public and affected  
21 States), the Secretaries shall issue—

22 (A) a report presenting the results of the  
23 study; and

24 (B) a report on each update of the study  
25 under paragraph (3).



1       (c) DEFERRAL OF DESIGNATION OF ENERGY COR-  
2 RIDORS PENDING COMPLETION OF STUDY.—

3           (1) LIMITATION ON ACTIONS PENDING COMPLE-  
4 TION OF STUDY.—The Secretaries shall not des-  
5 ignate energy corridors on public lands, including  
6 those corridors under consideration based on section  
7 368 of the Energy Policy Act of 2005 as in effect  
8 prior to repeal under this Act, and shall not author-  
9 ize specific rights-of-way or projects in such cor-  
10 ridors, until the study under section 2 is completed.

11          (2) USE OF STUDY RESULTS FOR ACTIONS  
12 AFTER COMPLETION OF STUDY.—

13           (A) IN GENERAL.—Subject to subpara-  
14 graph (B), after completion of the study under  
15 subsection (b), the Secretaries may use the re-  
16 sults of the study to inform subsequent deci-  
17 sions to grant rights-of-way, including under  
18 title V of the Federal Land Policy and Manage-  
19 ment Act of 1976 (43 U.S.C. 1761 et seq.), and  
20 to amend land use plans to designate energy  
21 corridors or authorize rights-of-way, in any area  
22 for which no such designation or authorization  
23 currently exists.

24           (B) LIMITATION ON USE.—The results of  
25 the study shall not affect the Secretaries' obli-

1           gations to analyze the environmental con-  
2           sequences of a designation or authorization re-  
3           ferred to in subparagraph (A), or to otherwise  
4           comply with applicable laws.

5 **SEC. 104. OIL SHALE AND TAR SANDS LEASING.**

6           Section 369 of the Energy Policy Act of 2005 (42  
7 U.S.C. 15927) is amended—

8           (1) in subsection (c), by striking “not later than  
9           180 days after the date of enactment of this Act,”;

10          (2) in subsection (c), by striking “shall make”  
11          and inserting “may make”;

12          (3) in subsection (d)(1), by striking “Not later  
13          than 18 months after the date of enactment of this  
14          Act, in” and inserting “In”;

15          (4) in subsection (d)(2)—

16                  (A) in the heading by striking “Final” and  
17                  inserting “Proposed”; and

18                  (B) in the text by striking “final” and in-  
19                  serting “proposed”;

20          (5) in subsection (d)(2), by striking “6” and in-  
21          serting “12”;

22          (6) in subsection (d)(2) by inserting after the  
23          period “The proposed regulations developed under  
24          this paragraph are to be open for public comment  
25          for no less than 180 days.”;

1           (7) by redesignating subsections (e) through (s)  
2       as subsections (g) through (u), and by inserting  
3       after subsection (d) the following:

4       “(e) OIL SHALE AND TAR SANDS LEASING AND DE-  
5       VELOPMENT STRATEGY.—

6           “(1) GENERAL.—Not later than 6 months after  
7       the completion of the programmatic environmental  
8       impact statement under subsection (d), the Sec-  
9       retary shall prepare an oil shale and tar sands leas-  
10      ing and development strategy, in cooperation with  
11      the Secretary of Energy and the Administrator of  
12      the Environmental Protection Agency.

13          “(2) PURPOSE.—The purpose of the strategy  
14      developed under this subsection is to allow for the  
15      sustainable and publicly acceptable large-scale devel-  
16      opment of oil shale within the Green River Forma-  
17      tion.

18          “(3) CONTENTS.—The strategy shall include  
19      plans and programs for obtaining information re-  
20      quired for determining the optimal methods, loca-  
21      tions, amount, and timeframe for potential develop-  
22      ment on federal lands within the Green River For-  
23      mation. The strategy shall also include plans for  
24      conducting critical environmental and ecological re-  
25      search, high-payoff process improvement research,

1 an assessment of carbon management options, and a  
2 large-scale demonstration of carbon dioxide seques-  
3 tration in the general vicinity of the Piceance Basin.

4 “(f) ALTERNATIVE APPROACHES.—Not later than  
5 nine months after the completion of the programmatic en-  
6 vironmental impact statement under subsection (d), the  
7 Secretary shall, in cooperation with the Secretary of En-  
8 ergy and the Administrator of the Environmental Protec-  
9 tion Agency, prepare and publish a report on alternative  
10 approaches to providing access to Federal lands for early  
11 first-of-a-kind commercial facilities for extracting and  
12 processing oil shale and tar sands.”;

13 (8) in subsection (g), as so redesignated, by  
14 striking “of the final regulation required by sub-  
15 section (d)” and inserting “of final regulations  
16 issued under this section”;

17 (9) in subsection (g), as so redesignated, by  
18 adding at the end the following: “Compliance with  
19 the National Environmental Policy Act of 1969 is  
20 required on a site-by-site basis for all lands proposed  
21 to be leased under the commercial leasing program  
22 established in this subsection.”; and

23 (10) in subsection (i)(1)(B), as so redesignated,  
24 by striking “subsection (e)” and inserting “sub-  
25 section (g)”.

1 **SEC. 105. REPEAL OF REBUTTABLE PRESUMPTION RE-**  
2 **GARDING APPLICATION OF CATEGORICAL**  
3 **EXCLUSION UNDER NEPA FOR OIL AND GAS**  
4 **EXPLORATION AND DEVELOPMENT ACTIVI-**  
5 **TIES.**

6 The Energy Policy Act of 2005 is amended—

7 (1) by repealing section 390 (42 U.S.C. 15942);

8 and

9 (2) in section 1(b) by striking the item relating  
10 to that section.

11 **SEC. 106. BEST MANAGEMENT PRACTICES.**

12 Not later than 180 days after the date of enactment  
13 of this Act, the Secretary of the Interior, through the Bu-  
14 reau of Land Management, shall amend the best manage-  
15 ment practices guidelines for oil and gas development on  
16 Federal lands, to—

17 (1) require public review and comment prior to  
18 waiving any stipulation of an oil and gas lease for  
19 such lands; and

20 (2) create an incentive for oil and gas operators  
21 to adopt best management practices by providing ex-  
22 pedited permit review for any operator that commits  
23 to adhering to those practices without seeking waiver  
24 of such stipulations.

1 **SEC. 107. FEDERAL CONSISTENCY APPEALS.**

2 (a) SHORT TITLE.—This section may be cited as the  
3 “Federal Consistency Appeals Decision Refinement Act”.

4 (b) CLARIFICATION OF APPEAL DECISION TIME PE-  
5 RIODS AND INFORMATION REQUIREMENTS.—Section 319  
6 of the Coastal Zone Management Act of 1972 (16 U.S.C.  
7 1465) is amended—

8 (1) in subsection (b)(1), by striking “160-day”  
9 and inserting “320-day”;

10 (2) in paragraph (3)(A), by amending clause  
11 (ii) to read as follows:

12 “(ii) as the Secretary determines nec-  
13 essary to receive, on an expedited basis,  
14 any supplemental or clarifying information  
15 relevant to the consolidated record com-  
16 piled by the lead Federal permitting agen-  
17 cy to complete a consistency review under  
18 this title.”; and

19 (3) in paragraph (3)(B)—

20 (A) by striking “160-day” and inserting  
21 “320-day”; and

22 (B) by striking “for a period not to exceed  
23 60 days.” and inserting “once.”.

1 **TITLE II—FEDERAL ENERGY**  
2 **PUBLIC ACCOUNTABILITY, IN-**  
3 **TEGRITY, AND PUBLIC INTER-**  
4 **EST**

5 **Subtitle A—Accountability and In-**  
6 **tegrity in the Federal Energy**  
7 **Program**

8 **SEC. 201. LIMITATIONS ON ROYALTY IN-KIND.**

9 Section 342 of the Energy Policy Act of 2005 (42  
10 U.S.C. 15902(d)) is amended—

11 (1) in subsection (d)—

12 (A) in the heading by striking “Benefit”  
13 and inserting “Filling of Strategic Petroleum  
14 Reserve and benefit”; and

15 (B) by striking “only if” and inserting  
16 “only if receiving such royalties in-kind is for  
17 the purpose of filling the Strategic Petroleum  
18 Reserve and”; and

19 (2) by adding at the end:

20 “(k) LIMITATION.—

21 “(1) IN GENERAL.—No amount of the total  
22 amount of royalties collected by the Secretary in a  
23 fiscal year may be collected as royalties in-kind.

24 “(2) EXCEPTION.—Paragraph (1) shall not  
25 apply with respect to royalties in-kind collected for

1 the purpose of filling the Strategic Petroleum Re-  
2 serve.”.

3 **SEC. 202. AUDITS.**

4 (a) REQUIREMENT TO INCREASE THE NUMBER OF  
5 AUDITS.—The Secretary of the Interior shall ensure that  
6 by fiscal year 2009 the Minerals Management Service  
7 shall perform no less than 550 audits of oil and gas leases  
8 each fiscal year.

9 (b) STANDARDS.—Not later than 120 days after the  
10 date of enactment of this Act, the Secretary of the Interior  
11 shall issue regulations that require that all employees that  
12 conduct audits or compliance reviews must meet profes-  
13 sional auditor qualifications that are consistent with the  
14 latest revision of the Government Auditing Standards pub-  
15 lished by the Government Accountability Office. Such reg-  
16 ulations shall also ensure that all audits conducted by the  
17 Department of the Interior are performed in accordance  
18 with such standards.

19 **SEC. 203. FINES AND PENALTIES.**

20 (a) SANCTIONS FOR VIOLATIONS RELATING TO FED-  
21 ERAL OIL AND GAS ROYALTIES.—Section 109 of the Fed-  
22 eral Oil and Gas Royalty Management Act of 1982 (30  
23 U.S.C. 1719) is amended to read as follows:

24 “CIVIL PENALTIES

25 “SEC. 109. (a) ROYALTY VIOLATIONS.—(1) No per-  
26 son shall—



1           “(A) after due notice of violation or after such  
2           violation has been reported under paragraph (3)(A),  
3           fail or refuse to comply with any requirement of any  
4           mineral leasing law or any regulation, order, lease,  
5           or permit under such a law;

6           “(B) fail or refuse to make any royalty pay-  
7           ment in the amount or value required by any min-  
8           eral leasing law or any regulation, order, or lease  
9           under such a law;

10          “(C) fail or refuse to make any royalty payment  
11          by the date required by any mineral leasing law or  
12          any regulation, order, or lease under such a law; or

13          “(D) prepare, maintain, or submit any false, in-  
14          accurate, or misleading report, notice, affidavit,  
15          record, data, or other written information or filing  
16          related to royalty payments that is required under  
17          any mineral leasing law or regulation issued under  
18          any mineral leasing law.

19          “(2) A person who violates paragraph (1) shall be lia-  
20          ble—

21                 “(A) in the case of a violation of subparagraph  
22                 (B) or (C) of paragraph (1) for an amount equal to  
23                 3 times the royalty the person fails or refuses to  
24                 pay, plus interest on that trebled amount measured

1 from the first date the royalty payment was due;  
2 and

3 “(B) in the case of any violation, for a civil  
4 penalty of \$25,000 per violation for each day the  
5 violation continues.

6 “(3) Paragraph (2) shall not apply to a violation of  
7 paragraph (1) if the person who commits the violation,  
8 within 30 days of the violation—

9 “(A) reports the violation to the Secretary or a  
10 representative designated by the Secretary; and

11 “(B) corrects the violation.

12 “(b) LEASE ADMINISTRATION VIOLATIONS.—Any  
13 person who—

14 “(1) fails to notify the Secretary of—

15 “(A) any designation by the person under  
16 section 102(a); or

17 “(B) any other assignment of obligations  
18 or responsibilities of the person under a lease;

19 “(2) fails or refuses to permit—

20 “(A) lawful entry;

21 “(B) inspection, including any inspection  
22 authorized by section 108; or

23 “(C) audit, including any failure or refusal  
24 to promptly tender requested documents;

1           “(3) fails or refuses to comply with subsection  
2       102(b)(3) (relating to notification regarding begin-  
3       ning or resumption of production); or

4           “(4) fails to correctly report and timely provide  
5       operations or financial records necessary for the Sec-  
6       retary or any authorized designee of the Secretary to  
7       accomplish lease management responsibilities,  
8       shall be liable for a penalty of up to \$10,000 per violation  
9       for each day such violation continues.

10       “(c) THEFT.—Any person who—

11           “(1) knowingly or willfully takes or removes,  
12       transports, uses or diverts any oil or gas from any  
13       lease site without having valid legal authority to do  
14       so; or

15           “(2) purchases, accepts, sells, transports, or  
16       conveys to another, any oil or gas knowing or having  
17       reason to know that such oil or gas was stolen or  
18       unlawfully removed or diverted,

19       shall be liable for a penalty of up to \$25,000 per violation  
20       for each day such violation continues without correction.

21       “(d) REPEATED VIOLATIONS.—(1)(A) If the Sec-  
22       retary or an authorized designee of the Secretary deter-  
23       mines that any person has repeatedly violated subsection  
24       (a), (b), or (c), the Secretary or designee shall notify the  
25       person of the violation and demand compliance.

1 “(B) A person notified pursuant to subparagraph (A)  
2 shall correct the violations by not later than 30 calendar  
3 days after the date of the notification.

4 “(C) Any person who fails to comply with a demand  
5 under subparagraph (A) shall be liable to the United  
6 States for a civil penalty equal to 3 times the amount of  
7 any civil penalty that otherwise applies under subsection  
8 (a), (b), or (c) to the violations to which the demand re-  
9 lates.

10 “(2) In addition to the penalty provided in paragraph  
11 (1)(C), if the Secretary determines that any person has  
12 repeatedly violated subsection (a), (b), or (c) or any lease  
13 management order, the Secretary may—

14 “(A) shut in and cease production of any oil or  
15 gas lease held by the person;

16 “(B) prohibit the person—

17 “(i) from acquiring any additional oil or  
18 gas lease, including by transfer or assignment;  
19 and

20 “(ii) from being designated under section  
21 102(a) to make payments due under any lease;

22 “(C) cancel or transfer any interest in an oil or  
23 gas lease held by the person; and

24 “(D) collect from the person reimbursement, in-  
25 cluding interest, of all costs of release, transfer, or

1 reclamation of lease sites canceled or transferred, in-  
2 cluding costs of disposing of lease property, facili-  
3 ties, and equipment.

4 “(e) ADMINISTRATIVE APPEAL.—(1) Any determina-  
5 tion by the Secretary or a designee of the Secretary of  
6 the amount of any royalties or civil penalties owed under  
7 subsection (a), (b), (c), or (d) shall be final, unless within  
8 15 days after notification by the Secretary or designee the  
9 person liable for such amount files an administrative ap-  
10 peal in accordance with regulations issued by the Sec-  
11 retary.

12 “(2) If a person files an administrative appeal pursu-  
13 ant to paragraph (1), the Secretary or designee shall make  
14 a final determination in accordance with the regulations  
15 referred to in paragraph (1).

16 “(f) DEDUCTION.—The amount of any penalty under  
17 this section, as finally determined may be deducted from  
18 any sums owing by the United States to the person  
19 charged.

20 “(g) COMPROMISE AND REDUCTION.—On a case-by-  
21 case basis the Secretary may compromise or reduce civil  
22 penalties under this section.

23 “(h) NOTICE.—Notice under this subsection (a) shall  
24 be by personal service by an authorized representative of  
25 the Secretary or by registered mail. Any person may, in

1 the manner prescribed by the Secretary, designate a rep-  
2 resentative to receive any notice under this subsection.

3 “(i) RECORD OF DETERMINATION.—In determining  
4 the amount of such penalty, or whether it should be remit-  
5 ted or reduced, and in what amount, the Secretary shall  
6 state on the record the reasons for his determinations.

7 “(j) JUDICIAL REVIEW.—Any person who has re-  
8 quested a hearing in accordance with subsection (e) within  
9 the time the Secretary has prescribed for such a hearing  
10 and who is aggrieved by a final order of the Secretary  
11 under this section may seek review of such order in the  
12 United States district court for the judicial district in  
13 which the violation allegedly took place. Review by the dis-  
14 trict court shall be only on the administrative record and  
15 not de novo. Such an action shall be barred unless filed  
16 within 90 days after the Secretary’s final order.

17 “(k) FAILURE TO PAY.—If any person fails to pay  
18 an assessment of a civil penalty under this Act—

19 “(1) after the order making the assessment has  
20 become a final order and if such person does not file  
21 a petition for judicial review of the order in accord-  
22 ance with subsection (j), or

23 “(2) after a court in an action brought under  
24 subsection (j) has entered a final judgment in favor  
25 of the Secretary,

1 the court shall have jurisdiction to award the amount as-  
 2 sessed plus interest from the date of the expiration of the  
 3 90-day period referred to in subsection (j). Judgment by  
 4 the court shall include an order to pay.

5 “(l) RELATIONSHIP TO MINERAL LEASING ACT.—No  
 6 person shall be liable for a civil penalty under subsection  
 7 (a) or (b) for failure to pay any rental for any lease auto-  
 8 matically terminated pursuant to section 31 of the Mineral  
 9 Leasing Act.

10 “(m) TOLLING OF STATUTES OF LIMITATION.—(1)  
 11 Any determination by the Secretary or a designee of the  
 12 Secretary that a person has violated subsection (a), (b)(2),  
 13 or (b)(4) shall toll any applicable statute of limitations for  
 14 all oil and gas leases held or operated by such person, until  
 15 the later of—

16 “(A) the date on which the person corrects the  
 17 violation and certifies that all violations of a like na-  
 18 ture have been corrected for all of the oil and gas  
 19 leases held or operated by such person; or

20 “(B) the date a final, nonappealable order has  
 21 been issued by the Secretary or a court of competent  
 22 jurisdiction.

23 “(2) A person determined by the Secretary or a des-  
 24 ignee of the Secretary to have violated subsection (a),

1 (b)(2), or (b)(4) shall maintain all records with respect  
2 to the person's oil and gas leases until the later of—

3 “(A) the date the Secretary releases the person  
4 from the obligation to maintain such records; and

5 “(B) the expiration of the period during which  
6 the records must be maintained under section  
7 103(b).

8 “(n) STATE SHARING OF PENALTIES.—Amounts re-  
9 ceived by the United States in an action brought under  
10 section 3730 of title 31, United States Code, that arises  
11 from any underpayment of royalties owed to the United  
12 States under any lease shall be treated as royalties paid  
13 to the United States under that lease for purposes of the  
14 mineral leasing laws and the Land and Water Conserva-  
15 tion Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).”.

16 (b) SHARED CIVIL PENALTIES.—Section 206 of the  
17 Federal Oil and Gas Royalty Management Act of 1982  
18 (30 U.S.C. 1736) is amended—

19 (1) by inserting “trebled royalties or” after “50  
20 per centum of any” and before “civil penalty”; and

21 (2) by striking the second sentence.



1 **Subtitle B—Amendments to Fed-**  
2 **eral Oil and Gas Royalty Man-**  
3 **agement Act of 1982**

4 **SEC. 211. AMENDMENTS TO DEFINITIONS.**

5 Section 3 of the Federal Oil and Gas Royalty Man-  
6 agement Act of 1982 (30 U.S.C. 1702) is amended—

7 (1) in paragraph (20)(A), by striking “: *Pro-*  
8 *vided, That*” and all that follows through “subject of  
9 the judicial proceeding”;

10 (2) in paragraph (20)(B), by striking “(with  
11 written notice to the lessee who designated the des-  
12 ignee)”;

13 (3) in paragraph (23)(A), by striking “(with  
14 written notice to the lessee who designated the des-  
15 ignee)” ;

16 (4) by amending paragraph (24) to read as fol-  
17 lows:

18 “(24) ‘designee’ means any person who pays,  
19 offsets, or credits monies, makes adjustments, re-  
20 quests and receives refunds, or submits reports with  
21 respect to payments a lessee must make pursuant to  
22 section 102(a);”;

23 (5) in paragraph (25)(B), by striking “(subject  
24 to the provision of section 102(a) of this Act)”;

1           (6) in paragraph (26), by striking “(with notice  
2           to the lessee who designated the designee)”.

3 **SEC. 212. INTEREST.**

4           (a) ESTIMATED PAYMENTS; INTEREST ON AMOUNT  
5 OF UNDER PAYMENT.—Section 111(j) of the Federal Oil  
6 and Gas Royalty Management Act of 1982 (30 U.S.C.  
7 1721(j)) is amended by striking “If the estimated pay-  
8 ment exceeds the actual royalties due, interest is owned  
9 on the overpayment.”.

10          (b) OVERPAYMENTS.—Section 111 of the Federal Oil  
11 and Gas Royalty Management Act of 1982 (30 U.S.C.  
12 1721) is amended by striking subsections (h) and (i).

13          (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall be effective one year after the date of  
15 enactment of this Act.

16 **SEC. 213. OBLIGATION PERIOD.**

17          Section 115(c) of the Federal Oil and Gas Royalty  
18 Management Act of 1982 (30 U.S.C. 1724(c)) is amend-  
19 ed—

20               “(3) ADJUSTMENTS.—In the case of an adjust-  
21 ment under section 111A(a) (30 U.S.C. 1721a(a)) in  
22 which a recoupment by the lessee results in an un-  
23 derpayment of an obligation, for purposes of this Act  
24 the obligation becomes due on the date the lessee or  
25 its designee makes the adjustment.”.

1 **SEC. 214. TOLLING AGREEMENTS AND SUBPOENAS.**

2 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of  
3 the Federal Oil and Gas Royalty Management Act of 1982  
4 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-  
5 tice to the lessee who designated the designee)”.

6 (b) SUBPEONAS.—Section 115(d)(2)(A) of the Fed-  
7 eral Oil and Gas Royalty Management Act of 1982 (30  
8 U.S.C. 1724(d)(2)(A)) is amended by striking “(with no-  
9 tice to the lessee who designated the designee, which notice  
10 shall not constitute a subpoena to the lessee)”.

11 **SEC. 215. LIABILITY FOR ROYALTY PAYMENTS.**

12 Section 102(a) of the Federal Oil and Gas Royalty  
13 Management Act of 1982 (30 U.S.C. 1712(a)) is amended  
14 to read as follows:

15 “(a) In order to increase receipts and achieve effec-  
16 tive collections of royalty and other payments, a lessee who  
17 is required to make any royalty or other payment under  
18 a lease or under the mineral leasing laws, shall make such  
19 payments in the time and manner as may be specified by  
20 the Secretary or the applicable delegated State. Any per-  
21 son who pays, offsets or credits monies, makes adjust-  
22 ments, requests and receives refunds, or submits reports  
23 with respect to payments the lessee must make is the les-  
24 see’s designee under this Act. Notwithstanding any other  
25 provision of this Act to the contrary, a designee shall be  
26 liable for any payment obligation of any lessee on whose

1 behalf the designee pays royalty under the lease. The per-  
 2 son owning operating rights in a lease and a person own-  
 3 ing legal record title in a lease shall be liable for that per-  
 4 son's pro rata share of payment obligations under the  
 5 lease.”.

## 6 **Subtitle C—Public Interest in the** 7 **Federal Energy Program**

### 8 **SEC. 221. SURFACE OWNER PROTECTION.**

9 (a) DEFINITIONS.—As used in this section—

10 (1) the term “Secretary” means the Secretary  
 11 of the Interior;

12 (2) the term “lease” means a lease issued by  
 13 the Secretary under the Mineral Leasing Act (30  
 14 U.S.C. 181 et seq.) or any other law, providing for  
 15 development of oil and gas resources (including coal-  
 16 bed methane) owned by the United States;

17 (3) the term “lessee” means the holder of a  
 18 lease; and

19 (4) the term “operator” means any person that  
 20 is responsible under the terms and conditions of a  
 21 lease for the operations conducted on leased lands or  
 22 any portion thereof.

23 (b) POST-LEASE SURFACE USE AGREEMENT.—

24 (1) IN GENERAL.—Except as provided in sub-  
 25 section (c), the Secretary may not authorize any op-

1 erator to conduct exploration and drilling operations  
2 on lands with respect to which title to oil and gas  
3 resources is held by the United States but title to  
4 the surface estate is not held by the United States,  
5 until the operator has filed with the Secretary a doc-  
6 ument, signed by the operator and the surface owner  
7 or owners, showing that the operator has secured a  
8 written surface use agreement between the operator  
9 and the surface owner or owners that meets the re-  
10 quirements of paragraph (2).

11 (2) CONTENTS.—The surface use agreement  
12 shall provide for—

13 (A) the use of only such portion of the sur-  
14 face estate as is reasonably necessary for explo-  
15 ration and drilling operations based on site-spe-  
16 cific conditions;

17 (B) the accommodation of the surface es-  
18 tate owner to the maximum extent practicable,  
19 including the location, use, timing, and type of  
20 exploration and drilling operations, consistent  
21 with the operator's right to develop the oil and  
22 gas estate;

23 (C) the reclamation of the site to a condi-  
24 tion capable of supporting the uses which such  
25 lands were capable of supporting prior to explo-

1           ration and drilling operations or other uses as  
2           agreed to by the operator and the surface  
3           owner; and

4           (D) compensation for damages as a result  
5           of exploration and drilling operations, including  
6           but not limited to—

7                   (i) loss of income and increased costs  
8                   incurred;

9                   (ii) damage to or destruction of per-  
10                  sonal property, including crops, forage, and  
11                  livestock; and

12                  (iii) failure to reclaim the site in ac-  
13                  cordance with this subparagraph (C).

14       (3) PROCEDURE.—

15           (A) IN GENERAL.—An operator shall no-  
16           tify the surface estate owner or owners of the  
17           operator's desire to conclude an agreement  
18           under this section. If the surface estate owner  
19           and the operator do not reach an agreement  
20           within 90 days after the operator has provided  
21           such notice, the matter shall be referred to  
22           third party arbitration for resolution within a  
23           period of 90 days. The cost of such arbitration  
24           shall be the responsibility of the operator.

1 (B) IDENTIFICATION OF ARBITERS.—The  
2 Secretary shall identify persons with experience  
3 in conducting arbitrations and shall make this  
4 information available to operators and surface  
5 owners.

6 (C) REFERRAL TO IDENTIFIED ARBI-  
7 TER.—Referral of a matter for arbitration by a  
8 person identified by the Secretary pursuant to  
9 subparagraph (B) shall be sufficient to con-  
10 stitute compliance with subparagraph (A).

11 (4) ATTORNEYS FEES.—If action is taken to  
12 enforce or interpret any of the terms and conditions  
13 contained in a surface use agreement, the prevailing  
14 party shall be reimbursed by the other party for rea-  
15 sonable attorneys fees and actual costs incurred, in  
16 addition to any other relief which a court or arbitra-  
17 tion panel may grant.

18 (c) AUTHORIZED EXPLORATION AND DRILLING OP-  
19 ERATIONS.—

20 (1) AUTHORIZATION WITHOUT SURFACE USE  
21 AGREEMENT.—The Secretary may authorize an op-  
22 erator to conduct exploration and drilling operations  
23 on lands covered by subsection (b) in the absence of  
24 an agreement with the surface estate owner or own-  
25 ers, if—

1 (A) the Secretary makes a determination  
2 in writing that the operator made a good faith  
3 attempt to conclude such an agreement, includ-  
4 ing referral of the matter to arbitration pursu-  
5 ant to subsection (b)(3), but that no agreement  
6 was concluded within 90 days after the referral  
7 to arbitration;

8 (B) the operator submits a plan of oper-  
9 ations that provides for the matters specified in  
10 subsection (b)(2) and for compliance with all  
11 other applicable requirements of Federal and  
12 State law; and

13 (C) the operator posts a bond or other fi-  
14 nancial assurance in an amount the Secretary  
15 determines to be adequate to ensure compensa-  
16 tion to the surface estate owner for any dam-  
17 ages to the site, in the form of a surety bond,  
18 trust fund, letter of credit, government security,  
19 certificate of deposit, cash, or equivalent.

20 (2) SURFACE OWNER PARTICIPATION.—The  
21 Secretary shall provide surface estate owners with  
22 an opportunity to—

23 (A) comment on plans of operations in ad-  
24 vance of a determination of compliance with  
25 this section;



1 (B) participate in bond level determina-  
2 tions and bond release proceedings under this  
3 subsection;

4 (C) attend an on-site inspection during  
5 such determinations and proceedings;

6 (D) file written objections to a proposed  
7 bond release; and

8 (E) request and participate in an on-site  
9 inspection when they have reason to believe  
10 there is a violation of the terms and conditions  
11 of a plan of operations.

12 (3) PAYMENT OF FINANCIAL GUARANTEE.—A  
13 surface estate owner with respect to any land subject  
14 to a lease may petition the Secretary for payment of  
15 all or any portion of a bond or other financial assur-  
16 ance required under this subsection as compensation  
17 for any damages as a result of exploration and drill-  
18 ing operations. Pursuant to such a petition, the Sec-  
19 retary may use such bond or other guarantee to pro-  
20 vide compensation to the surface estate owner for  
21 such damages.

22 (4) BOND RELEASE.—Upon request and after  
23 inspection and opportunity for surface estate owner  
24 review, the Secretary may release the financial as-  
25 surance required under this subsection if the Sec-

1       retary determines that exploration and drilling oper-  
2       ations are ended and all damages have been fully  
3       compensated.

4       (d) SURFACE OWNER NOTIFICATION.—The Sec-  
5       retary shall—

6               (1) notify surface estate owners in writing at  
7       least 45 days in advance of lease sales;

8               (2) within ten working days after a lease is  
9       issued, notify surface estate owners of regarding the  
10      identity of the lessee;

11              (3) notify surface estate owners in writing with-  
12      in 10 working days concerning any subsequent deci-  
13      sions regarding a lease, such as modifying or  
14      waiving stipulations and approving rights of way;  
15      and

16              (4) notify surface estate owners within five  
17      business days after issuance of a drilling permit  
18      under a lease.

19   **SEC. 222. ONSHORE OIL AND GAS RECLAMATION AND**  
20                           **BONDING.**

21      Section 17 of the Mineral Leasing Act (30 U.S.C.  
22   226) is amended by adding at the end the following:

23      “(p) RECLAMATION REQUIREMENTS.—An operator  
24   producing oil or gas (including coalbed methane) under  
25   a lease issued pursuant to this Act shall—

1           “(1) at a minimum restore the land affected to  
2           a condition capable of supporting the uses that it  
3           was capable of supporting prior to any drilling, or  
4           higher or better uses of which there is reasonable  
5           likelihood, so long as such use or uses do not present  
6           any actual or probable hazard to public health or  
7           safety or pose any actual or probable threat of water  
8           diminution or pollution, and the permit applicants’  
9           declared proposed land use following reclamation is  
10          not impractical or unreasonable, inconsistent with  
11          applicable land use policies and plans, or involve un-  
12          reasonable delay in implementation, or is violative of  
13          Federal, State, or local law;

14          “(2) ensure that all reclamation efforts proceed  
15          in an environmentally sound manner and as contem-  
16          poraneously as practicable with the oil and gas drill-  
17          ing operations; and

18          “(3) submit with the plan of operations a rec-  
19          lamation plan that describes in detail the methods  
20          and practices that will be used to ensure complete  
21          and timely restoration of all lands affected by oil  
22          and gas operations.

23          “(q) RECLAMATION BOND.—An operator producing  
24          oil or gas (including coalbed methane) under a lease issued  
25          under this Act shall post a bond that covers that area of

1 land within the permit area upon which the operator will  
 2 initiate and conduct oil and gas drilling and reclamation  
 3 operations within the initial term of the permit. As suc-  
 4 ceeding increments of oil and gas drilling and reclamation  
 5 operations are to be initiated and conducted within the  
 6 permit area, the lessee shall file with the regulatory au-  
 7 thority an additional bond or bonds to cover such incre-  
 8 ments in accordance with this section. The amount of the  
 9 bond required for each bonded area shall depend upon the  
 10 reclamation requirements of the approved permit; shall re-  
 11 flect the probable difficulty of reclamation giving consider-  
 12 ation to such factors as topography, geology of the site,  
 13 hydrology, and revegetation potential; and shall be deter-  
 14 mined by the Secretary. The amount of the bond shall be  
 15 sufficient to assure the completion of the reclamation plan  
 16 if the work had to be performed by the Secretary in the  
 17 event of forfeiture.

18 “(r) REGULATIONS.—No later than one year after  
 19 the date of the enactment of this subsection, the Secretary  
 20 shall promulgate regulations to implement the require-  
 21 ments of subsections (p) and (q).”.

22 **SEC. 223. PROTECTION OF WATER RESOURCES.**

23 (a) MINERAL LEASING ACT REQUIREMENTS.—Sec-  
 24 tion 17 of the Mineral Leasing Act (30 U.S.C. 226) is  
 25 further amended by adding at the end the following:

1 “(s) WATER REQUIREMENTS.—

2 “(1) IN GENERAL.—An operator producing oil  
3 or gas (including coalbed methane) under a lease  
4 issued under this Act shall—

5 “(A) replace the water supply of a water  
6 user who obtains all or part of such user’s sup-  
7 ply of water for domestic, agricultural, or other  
8 purposes from an underground or surface  
9 source that has been affected by contamination,  
10 diminution, or interruption proximately result-  
11 ing from drilling operations for such produc-  
12 tion; and

13 “(B) comply with all applicable require-  
14 ments of Federal and State law for discharge of  
15 any water produced under the lease.

16 “(2) WATER MANAGEMENT PLAN.—An applica-  
17 tion for a lease under this subsection shall be accom-  
18 panied by a proposed water management plan in-  
19 cluding provisions to—

20 “(A) protect the quantity and quality of  
21 surface and ground water systems, both on-site  
22 and off-site, from adverse effects of the explo-  
23 ration, development, and reclamation processes  
24 or to provide alternative sources of water if  
25 such protection cannot be assured;

1 “(B) protect the rights of present users of  
 2 water that would be affected by operations  
 3 under the lease, including the discharge of any  
 4 water produced in connection with such oper-  
 5 ations that is not reinjected; and

6 “(C) identify any agreements with other  
 7 parties for the beneficial use of produced waters  
 8 and the steps that will be taken to comply with  
 9 State and Federal laws related to such use.”.

10 (b) RELATION TO STATE LAW.—Nothing in this sub-  
 11 title or any amendment made by this subtitle shall—

12 (1) be construed as impairing or in any manner  
 13 affecting any right or jurisdiction of any State with  
 14 respect to the waters of such State; or

15 (2) be construed as limiting, altering, modi-  
 16 fying, or amending any of the interstate compacts or  
 17 equitable apportionment decrees that apportion  
 18 water among and between States.

19 **SEC. 224. DUE DILIGENCE FEE.**

20 (a) ESTABLISHMENT.—The Secretary of the Interior  
 21 shall, within 180 days after the date of enactment of this  
 22 Act, issue regulations to establish a fee with respect to  
 23 Federal onshore lands that are subject to a lease for pro-  
 24 duction of oil, natural gas, or coal under which production  
 25 is not occurring.

1 (b) AMOUNT.—The amount of the fee shall be \$1 per  
 2 year for each acre of land that is not in production for  
 3 that year.

4 (c) ASSESSMENT AND COLLECTION.—The Secretary  
 5 shall assess and collect the fee established under this sec-  
 6 tion.

7 (d) DEPOSIT AND USE.—Amounts received by the  
 8 United States in the form of the fee established under this  
 9 section shall be available to the Secretary of the Interior  
 10 for use to repair damage to Federal lands and resources  
 11 caused by oil and gas development, in accordance with the  
 12 the documents submitted by the President with the budget  
 13 submission for fiscal year 2008 relating to the Healthy  
 14 Lands Initiative.

15 **Subtitle D—Ensuring Safety of**  
 16 **Wildlife With Respect to Wind**  
 17 **Energy**

18 **SEC. 231. STANDARDS AND REQUIREMENTS.**

19 (a) IN GENERAL.—Within 180 days after the date  
 20 of enactment of this Act, the Secretary, acting through  
 21 the Director and after public notice and opportunity to  
 22 comment, shall promulgate regulations that establish min-  
 23 imum standards for siting, construction, monitoring, and  
 24 adaptive management that must be satisfied by all wind

1 projects to avoid, minimize, and mitigate adverse impacts  
2 on migratory birds, bats, and other wildlife.

3 (b) NEW WIND PROJECTS.—Such standards shall,  
4 for all wind projects that have not been constructed before  
5 the date of enactment of this Act, include at a minimum  
6 the following:

7 (1) PRECONSTRUCTION SURVEYS.—Require-  
8 ments for comprehensive preconstruction surveys  
9 that are of sufficient duration and scope to reason-  
10 ably evaluate the extent to which a particular site is  
11 used by migratory birds, bats, and other wildlife, in-  
12 cluding species listed as endangered species or  
13 threatened species under section 4 of the Endan-  
14 gered Species Act of 1973(16 U.S.C. 1533) and the  
15 potential cumulative impact that a proposed wind  
16 project would have on such wildlife in combination  
17 with other existing or proposed wind projects. Such  
18 requirements shall provide that surveys must be car-  
19 ried out by scientific teams that include independent  
20 scientists and that the Director may obtain reason-  
21 able access to the proposed construction site to en-  
22 sure that survey protocols are being properly devel-  
23 oped and implemented.

24 (2) SITING.—Standards for siting wind projects  
25 for which construction has not begun so as to avoid



1 impacts, including cumulative impacts, on birds,  
2 bats, and other wildlife to the greatest extent prac-  
3 ticable based on data gathered during  
4 preconstruction surveys required under paragraph  
5 (1), including—

6 (A) the avoidance of ecologically sensitive  
7 areas of importance to wildlife, such as migra-  
8 tion corridors, wetlands, and other habitats  
9 where wildlife congregate; hibernation, breed-  
10 ing, and nursery areas; and critical habitats of  
11 endangered species and threatened species, and

12 (B) siting and configuring wind turbines to  
13 avoid landscape and other features known to at-  
14 tract wildlife.

15 (3) CONSTRUCTION AND OPERATION.—Require-  
16 ments for the construction and operation of wind  
17 projects so that they minimize impacts on birds,  
18 bats, and other wildlife to the greatest extent prac-  
19 ticable, including by—

20 (A) incorporating the best available tech-  
21 nology for minimizing such impacts, and

22 (B) operating such projects in a manner  
23 that minimizes impacts on birds, bats, and  
24 other wildlife.

1           (4) POST-CONSTRUCTION MONITORING.—Re-  
2       quirements for thorough post-construction moni-  
3       toring of the actual impacts, including cumulative  
4       impacts, that wind projects are having on birds,  
5       bats, and other wildlife, including standards and  
6       protocols for transmitting all monitoring data and  
7       findings to the Director for consideration of cumu-  
8       lative impacts and dissemination to the public. Such  
9       requirements shall provide that monitoring must be  
10      carried out by scientific teams that include inde-  
11      pendent scientists, and that the Director may obtain  
12      access at any time to the site to ensure that moni-  
13      toring protocols are being properly developed and  
14      implemented.

15           (5) ADAPTIVE MANAGEMENT.—Requirements  
16      for adaptive management of wind projects if the im-  
17      pacts of such projects on birds, bats, and other wild-  
18      life exceed predicted impacts, including requirements  
19      that a wind project operator shall—

20                   (A) take steps to reduce such impacts to  
21                   the levels predicted prior to operation; or

22                   (B) suspend operations if such steps are  
23                   not, or cannot be, taken.

24           (6) OFFSET OF UNAVOIDABLE IMPACTS.—Re-  
25      quirements that wind projects offset any unavoidable

1 impacts, including cumulative impacts, on birds,  
2 bats, and other wildlife through the acquisition, con-  
3 servation, or restoration of mitigation habitat, the  
4 funding of research that will be of value in con-  
5 serving affected wildlife, and other appropriate  
6 measures.

7 (c) EXISTING PROJECTS.—Such standards shall, for  
8 all wind projects that have begun operation before the date  
9 of enactment of this Act, include at a minimum appro-  
10 priate requirements for monitoring, adaptive management,  
11 and offset of unavoidable impacts mitigation for adverse  
12 impacts on birds, bats, and other wildlife, consistent with  
13 paragraphs (4) through (6) of subsection (b).

14 **SEC. 232. CERTIFICATION OF COMPLIANCE.**

15 (a) CERTIFICATION REQUIREMENT.—

16 (1) IN GENERAL.—No person may construct or  
17 operate a wind project unless the Director has  
18 issued a certification that the project will be con-  
19 structed and operated in compliance with the stand-  
20 ards promulgated under section 231.

21 (2) APPLICATION.—Paragraph (1) shall  
22 apply—

23 (A) in the case of a wind power project  
24 that began operating before the date of enact-  
25 ment of this Act, beginning at the end of the

1 180-day period beginning on the date the Direc-  
2 tor promulgates regulations under subsection  
3 (b); and

4 (B) in the case of a wind power project  
5 that has not been constructed before the date of  
6 enactment of this Act, beginning on such date  
7 of enactment.

8 (b) APPLICATIONS.—

9 (1) IN GENERAL.—Within 180 days after the  
10 date of enactment of this Act, the Director, after  
11 public notice and opportunity to comment, shall pro-  
12 mulgate regulations that establish procedures for  
13 issuing certifications under this section.

14 (2) CONTENTS.—Such regulations shall—

15 (A) include requirements for submitting an  
16 application for certification under this section,  
17 including requirements for the contents of such  
18 applications;

19 (B) provide for advance public comment on  
20 each application for certification and on the  
21 conditions that should be attached to such a  
22 certification; and

23 (C) require that such applications address  
24 in detail how the project will be constructed and

1           operated in compliance with all applicable  
2           standards promulgated under section 231.

3           (c) RENEWAL OF CERTIFICATION.—Regulations  
4 under subsection (b) shall—

5           (1) require that each certification under this  
6           section must be renewed at least once every three  
7           years;

8           (2) establish procedures and requirements ap-  
9           plicable to such renewal applications; and

10          (3) provide for advance public notice and com-  
11          ment regarding each application for renewal.

12 **SEC. 233. PENALTIES.**

13          A person who violates this subtitle or a regulation  
14 issued under this subtitle is subject to a fine of not more  
15 than \$50,000, or imprisonment of not more than one year,  
16 or both.

17 **SEC. 234. RELATIONSHIP TO OTHER STATUTES.**

18          Nothing in this subtitle affects the application of the  
19 Endangered Species Act of 1973, the Migratory Bird  
20 Treaty Act, the Bald Eagle Protection Act, the Golden  
21 Eagle Protection Act, the Marine Mammal Protection Act  
22 of 1973, National Environmental Policy Act of 1969, or  
23 any other relevant Federal law to wind projects.

24 **SEC. 235. DEFINITIONS.**

25          As used in this subtitle:

1           (1) DIRECTOR.—The term “Director” means  
2           the Director of the United States Fish and Wildlife  
3           Service, or a designee of that Director.

4           (2) INDEPENDENT SCIENTIST.—The term  
5           “independent scientist” mean a scientist who is not  
6           an employee of, or regular consultant to, the wind  
7           power industry.

8           (3) SECRETARY.—The term “Secretary” means  
9           the Secretary of the Interior.

10          (4) WIND PROJECT.—The term “wind project”  
11          means any project in the United States that uses  
12          wind to generate electric power.

## 13           **Subtitle E—Enhancing Energy** 14           **Transmission**

### 15   **SEC. 241. ENERGY TRANSMISSION SERVICE OFFERED BY** 16           **POWER MARKETING ADMINISTRATIONS.**

17          The Secretary of Energy shall require each Federal  
18   Power Marketing Administration providing transmission  
19   service to offer conditional firm energy transmission serv-  
20   ice, consistent with Federal Energy Regulatory Commis-  
21   sion order 890, through contracts of one or more years  
22   in duration.

### 23   **SEC. 242. POWER MARKETING ADMINISTRATIONS REPORT.**

24          (a) ANALYSIS.—The Secretary of Energy, acting  
25   through the Administrators of the Bonneville and Western

1 Area Power Marketing Administrations, shall conduct an  
2 analysis of the existing capacity of transmission and dis-  
3 tribution systems serving the States of California, Oregon,  
4 and Washington to accommodate and promote develop-  
5 ment and commercial operation of ocean wave, tidal, and  
6 current energy projects in State and Federal marine wa-  
7 ters adjacent to those States.

8 (b) REPORT.—Based on the analysis conducted under  
9 subsection (a), the Secretary of Energy shall prepare and  
10 provide to the Natural Resources Committee of the House  
11 of Representatives and the Energy and Natural Resources  
12 Committee of the Senate, not later than one year after  
13 the date of enactment of this Act, a report identifying  
14 changes required, if any, in the capacity of existing trans-  
15 mission and distribution systems serving the States re-  
16 ferred to in subsection (a) in order to reliably and effi-  
17 ciently accommodate generation from commercial ocean  
18 wave, tidal, and current energy projects in aggregate, es-  
19 calating amounts equal to 2.5, 5, and 10 percent of the  
20 current electrical energy consumption in those States.

# **TITLE III—ALTERNATIVE ENERGY AND EFFICIENCY**

## **SEC. 301. STATE OCS ALTERNATIVE ENERGY PLANNING.**

(a) IN GENERAL.—The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq. is amended by inserting after section 306A the following:

“OCS ALTERNATIVE ENERGY STATE SURVEYS; ALTERNATIVE ENERGY SITE IDENTIFICATION AND PLANNING

“SEC. 306B. (a) GRANTS TO STATES.—The Secretary may make grants to eligible coastal states to support voluntary State efforts to initiate and complete surveys of portions of the Outer Continental Shelf adjacent to a State’s coastal zone and coastal state waters to identify potential areas suitable for the exploration, development, and production of alternative energy that are consistent with the enforceable policies of coastal management plans approved pursuant to section 306A.

“(b) SURVEY ELEMENTS.—Surveys developed with grants under this section shall include, but not be limited to—

“(1) hydrographic and bathymetric surveys;

“(2) oceanographic observations and measurements of the physical ocean environment, especially seismically active areas;



1           “(3) identification and characterization of sig-  
2           nificant or sensitive marine ecosystems or other  
3           areas possessing important conservation, rec-  
4           reational, ecological, historic, or aesthetic values;

5           “(4) surveys of existing marine uses in the OCS  
6           and identification of potential conflicts;

7           “(5) inventories and surveys of shore locations  
8           and infrastructure capable of supporting alternative  
9           energy development; and

10          “(6) other actions as may be necessary.

11          “(c) PARTICIPATION.—To the extent practicable,  
12 coastal states shall provide opportunity for the participa-  
13 tion in surveys under this section by relevant Federal  
14 agencies, State agencies, local governments, regional orga-  
15 nizations, port authorities, and other interested parties  
16 and stakeholders, public and private, that is adequate to  
17 develop a comprehensive survey.

18          “(d) GUIDELINES.—The Secretary shall, within 180  
19 days after the date of enactment of this section and after  
20 consultation with the coastal states, publish guidelines for  
21 the application for and use of grants under this section.

22          “(e) ANNUAL GRANTS.—For each of fiscal years  
23 2008 through 2011, the Secretary may make a grant to  
24 a coastal state under this section if the coastal state dem-  
25 onstrates to the satisfaction of the Secretary that the

1 grant will be used to develop an alternative energy survey  
2 consistent with the requirements set forth in section 306A  
3 and this section.

4 “(f) GRANT AMOUNTS.—The amount of any grant  
5 under this section shall not exceed \$750,000 for any fiscal  
6 year.

7 “(g) STATE MATCH.—

8 “(1) BEFORE FISCAL YEAR 2010.—The Sec-  
9 retary shall not require any State matching fund  
10 contribution for grants awarded under this section  
11 for any fiscal year before fiscal year 2010.

12 “(2) AFTER FISCAL YEAR 2010.—The Secretary  
13 shall require a coastal state to provide a matching  
14 fund contribution for a grant under this section ac-  
15 cording to—

16 “(A) a 2-to-1 ratio of Federal-to-State con-  
17 tributions for fiscal year 2010; and

18 “(B) a 1-to-1 ratio of Federal-to-State  
19 contributions for fiscal year 2011.

20 “(h) SECRETARIAL REVIEW.—After an initial grant  
21 is made to a coastal state under this section, no subse-  
22 quent grant may be made to that coastal state under this  
23 section unless the Secretary finds that the coastal state  
24 is satisfactorily developing its survey.

1       “(i) LIMITATION ON ELIGIBILITY.—No coastal state  
2 is eligible to receive grants under this section for more  
3 than 4 fiscal years.

4       “(j) APPLICABILITY.—This section and the surveys  
5 conducted with assistance under this section shall not be  
6 construed to convey any new authority to any coastal  
7 state, or repeal or supersede any existing authority of any  
8 Federal agency, to regulate the siting, licensing, leasing,  
9 or permitting of alternative energy facilities in areas of  
10 the Outer Continental Shelf under the administration of  
11 the Federal Government. Nothing in this section repeals  
12 or supersedes any existing coastal state authority.

13       “(k) PRIORITY.—Any area that is identified as suit-  
14 able for potential alternative energy development under  
15 surveys developed with assistance under this section shall  
16 be given priority consideration by Federal agencies for the  
17 siting, licensing, leasing, or permitting of alternative en-  
18 ergy facilities.

19       “(l) ASSISTANCE BY THE SECRETARY.—The Sec-  
20 retary shall—

21               “(1) under section 307(a) and to the extent  
22 practicable, make available to coastal states the re-  
23 sources and capabilities of the National Oceanic and  
24 Atmospheric Administration to provide technical as-

1       sistance to the coastal states to develop surveys  
2       under this section; and

3               “(2) encourage other Federal agencies with rel-  
4       evant expertise to participate in providing technical  
5       assistance under this subsection.”.

6       (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
7       318(a) of the Coastal Zone Management Act of 1972 (16  
8       U.S.C. 1464) is amended—

9               (1) in paragraph (1) by striking “and” after  
10      the semicolon;

11              (2) in paragraph (2), by striking the period at  
12      the end and inserting a semicolon; and

13              (3) by adding at the end the following:

14              “(3) for grants under section 306B such sums  
15      as are necessary; and”.

16   **SEC. 302. CANAL-SIDE POWER PRODUCTION AT BUREAU OF**  
17                           **RECLAMATION PROJECTS.**

18       Not later than one year after the date of the enact-  
19      ment of this Act, the Secretary of the Interior shall com-  
20      plete an evaluation and report to Congress on the potential  
21      for developing rights-of-way along Bureau of Reclamation  
22      canals and infrastructure for solar or wind energy produc-  
23      tion through leasing of lands or other means. The report  
24      to Congress shall specify—

- 1           (1) location of potential rights-of-way for en-  
2           ergy production;
- 3           (2) total acreage available for energy produc-  
4           tion;
- 5           (3) existing transmission infrastructure at sites;
- 6           (4) estimates of fair market leasing value of po-  
7           tential energy sites; and
- 8           (5) estimate energy development potential at  
9           sites.

10 **SEC. 303. INCREASING ENERGY EFFICIENCIES FOR WATER**  
11 **DESALINATION.**

12       The Water Desalination Act of 1996 (42 U.S.C.  
13 10301 note; Public Law 104–298) is amended by adding  
14 at the end the following new section:

15 **“SEC. 10. RESEARCH ON REVERSE OSMOSIS TECHNOLOGY**  
16 **FOR WATER DESALINATION AND WATER RE-**  
17 **CYCLING.**

18       “(a) RESEARCH PROGRAM.—The Secretary of the In-  
19 terior, in consultation with the Secretary of Energy, shall  
20 implement a program to research methods for improving  
21 the energy efficiency of reverse osmosis technology for  
22 water desalination and water recycling.

23       “(b) REPORT.—Not later than one year after the  
24 date of the enactment of this Act, the Secretary of the

1 Interior shall submit to Congress a report which shall in-  
2 clude—

3 “(1) a review of existing and emerging tech-  
4 nologies, both domestic and international, that are  
5 likely to improve energy efficiency at existing and  
6 future desalination and recycling facilities; and

7 “(2) an analysis of the economic viability of en-  
8 ergy efficiency technologies.”.

9 **SEC. 304. GREEN BUILDING LEADERSHIP PROGRAM.**

10 (a) MAJOR NEW CONSTRUCTION.—All major new fa-  
11 cility construction projects funded in whole or in part  
12 through the Department of the Interior, the National  
13 Ocean Service, the National Marine Fisheries Service, or  
14 the Forest Service shall be designed to meet or exceed  
15 Leadership in Energy and Environmental Design Green  
16 Building Rating System Silver Certification Standards.

17 (b) EXISTING FACILITIES.—All major facility renova-  
18 tion projects or facility adaptive reuse projects funded in  
19 whole or in part through the Department of the Interior,  
20 the National Ocean Service, the National Marine Fisheries  
21 Service, or the Forest Service shall be designed to meet  
22 or exceed Leadership in Energy and Environmental De-  
23 sign Existing Building Silver Certification Standards.

24 (c) CERTIFICATION.—Certification under the Leader-  
25 ship in Energy and Environmental Design program of fa-

1 cilities described in subsections (a) and (b) is encouraged  
2 but not required.

3 **SEC. 305. GREEN CONCESSIONS MANAGEMENT PROGRAM.**

4 When awarding any concession, whether operated  
5 under a concession contract, special use permit, or lease,  
6 the Department of the Interior and the Forest Service  
7 shall give preference to proposals that are likely to result  
8 in demonstrable energy savings and the implementation  
9 of environmentally sustainable practices.

10 **SEC. 306. FEDERAL HYDROPOWER PRODUCTION FACILI-**  
11 **TIES INVENTORY AND MAP.**

12 Not later than one year after the date of the enact-  
13 ment of this Act, the United States Geological Survey and  
14 the Bureau of Reclamation, in consultation with the Fed-  
15 eral Energy Regulatory Commission, shall inventory and  
16 map groundwater resources and uses in hydrologic water-  
17 sheds containing Federal hydropower production facilities.  
18 The inventory shall include the following:

19 (1) An analysis of groundwater use in the wa-  
20 tersheds and a description of the source or recharge  
21 area for the aquifers.

22 (2) An analysis of the capacity and volume of  
23 groundwater resources in the watersheds, including  
24 an assessment of whether groundwater resources can  
25 be developed on a sustainable and economically via-

1 ble basis to improve the reliability of surface water  
2 supplies for hydroelectric power generation.

3 (3) Any known reduction of energy generation  
4 capacity or use from drought or other factors.

5 **SEC. 307. ESTABLISHING A PILOT PROGRAM FOR THE DE-**  
6 **VELOPMENT OF STRATEGIC SOLAR RE-**  
7 **SERVES ON FEDERAL LANDS.**

8 (a) PURPOSE.—To establish a pilot program for the  
9 development of strategic solar reserve on Federal lands for  
10 the advancement, development, assessment, and installa-  
11 tion of commercial concentrating solar power energy sys-  
12 tems.

13 (b) STRATEGIC SOLAR RESERVE PROGRAM.—

14 (1) SITE SELECTION.—The Secretary of the In-  
15 terior, in consultation with the Secretary of Energy,  
16 the Secretary of Defense, and the Federal Energy  
17 Regulatory Commission, States, tribal, or local units  
18 of governments, as appropriate, affected utility in-  
19 dustries, and other interested persons, shall complete  
20 the following:

21 (A) Identify Federal lands under the juris-  
22 diction of the Bureau of Land Management,  
23 subject to valid existing rights, that are suitable  
24 and feasible for the installation of concentrating  
25 solar power energy systems sufficient to create



1 a solar energy reserve of no less than 4 GW  
2 and no more than 10 GW.

3 (B) Perform any environmental reviews  
4 that may be required to complete the designa-  
5 tion of such solar reserves.

6 (C) Incorporate the designated solar re-  
7 serves into the relevant agency land use and re-  
8 source management plans or equivalent plans.

9 (2) MINIMUM POWER OF SITES.—Each site  
10 identified as suitable and feasible for the installation  
11 of concentrating solar power systems shall be suffi-  
12 cient for the installation of at least 1 GW.

13 (3) LANDS INCLUDED.—The following Federal  
14 lands shall not be included within a strategic solar  
15 reserve site:

16 (A) Components of the National Land-  
17 scape Conservation System.

18 (B) Areas of Critical Environmental Con-  
19 cern.

20 (4) IMPLEMENTATION OF THE STRATEGIC  
21 SOLAR RESERVE.—(A) The Secretary of Energy and  
22 the Secretary of Interior shall expeditiously imple-  
23 ment a strategic solar reserve program for concen-  
24 trating solar energy to produce no less than 4 GW  
25 and no more than 10 GW on such Federal lands,

1 following the completion of the requirements con-  
2 tained in subparagraph (B).

3 (B) The Secretary of Energy, in consultation  
4 with the Secretary of the Interior, shall establish a  
5 program within the Department of Energy to admin-  
6 ister the selection and installation of concentrating  
7 solar power technologies on such Federal lands iden-  
8 tified in paragraph (1)(A). The Secretary of Energy  
9 shall establish criteria for an application process to  
10 allow for a variety of concentrating solar tech-  
11 nologies and for project development milestones to  
12 ensure due diligence in the development of the stra-  
13 tegic solar reserves.

14 (5) ENVIRONMENTAL COMPLIANCE.—The Sec-  
15 retary of the Interior shall complete all necessary en-  
16 vironmental surveys, compliance and permitting for  
17 rights of way pursuant to title V of the Federal  
18 Land Policy Management Act of 1976 for each stra-  
19 tegic solar reserve, as expeditiously as possible. The  
20 applicant shall pay all costs of environmental compli-  
21 ance, including when a determination is made that  
22 the land is not suitable and feasible for such instal-  
23 lation or the bid is withdrawn following the initiation  
24 of such environmental compliance.

1           (6) PERMITS.—The Secretary of the Interior  
2       shall ensure that all strategic solar reserve installa-  
3       tion pursuant to this section is permitted using an  
4       expedited permitting process. The Secretary shall, in  
5       consultation with the Secretary of Energy, complete  
6       the preparation of a Programmatic Environmental  
7       Impact Statement by the Departments of Energy  
8       and Interior for concentrating solar power on Fed-  
9       eral lands.

10          (7) RENTAL FEES.—The rental fee for each  
11       strategic solar reserve right-of-way authorization  
12       under this subsection shall be established at the  
13       greater of \$200 per acre or fair market value for the  
14       first year of operation and increasing 25 percent  
15       after the first 5 years and an additional 25 percent  
16       in the tenth year of the pilot program, to be paid in  
17       annual payments commencing on the day of oper-  
18       ation. During the development and construction  
19       phase of a project, the rental fee shall be waived.  
20       The leases shall be for a term of 30 years.

21          (8) REPORT TO CONGRESS.—The Secretary of  
22       the Interior, in consultation with the Secretary of  
23       Energy, shall submit a report to Congress on the  
24       findings of the pilot project—

1 (A) not later than 3 years after the instal-  
2 lation of the first facility pursuant to this sec-  
3 tion; and

4 (B) 10 years after the installation of the  
5 first facility pursuant to this section.

6 (c) BUY AMERICAN ACT.—In carrying out this sec-  
7 tion, the Secretary shall comply with the Buy American  
8 Act (41 U.S.C. 10a et seq.).

9 (d) DAVIS-BACON ACT.—Notwithstanding any other  
10 provision of law, the prevailing wage requirements of sub-  
11 chapter IV of chapter 31 of title 40, United State Code,  
12 shall apply to any labor funded under this Act.

13 (e) SUNSET.—The authorities contained in this sec-  
14 tion shall expire 10 years after the date of the enactment  
15 of this Act.

16 **SEC. 308. OTEC REGULATIONS.**

17 The Administrator of the National Oceanic and At-  
18 mospheric Administration shall, within two years after the  
19 date of enactment of this Act, issue regulations necessary  
20 to implement the Administrator's authority to license off-  
21 shore thermal energy conversion facilities under the Ocean  
22 Thermal Energy Conversion Research, Development, and  
23 Demonstration Act (42 U.S.C. 9001 et seq.).

1 **SEC. 309. BIOMASS UTILIZATION PILOT PROGRAM.**

2 (a) REPLACEMENT OF CURRENT GRANT PRO-  
3 GRAM.—Section 210 of the Energy Policy Act of 2005 (42  
4 U.S.C. 15855) is amended to read as follows:

5 **“SEC. 210. BIOMASS UTILIZATION PILOT PROGRAM.**

6 “(a) FINDINGS.—Congress finds the following:

7 “(1) The supply of woody biomass for energy  
8 production is directly linked to forest management  
9 planning to a degree far greater than in the case of  
10 other types of energy development.

11 “(2) As a consequence of this linkage, the proc-  
12 ess of developing and evaluating appropriate tech-  
13 nologies and facilities for woody biomass energy and  
14 utilization must be integrated with long-term forest  
15 management planning processes, particularly in situ-  
16 ations where Federal lands dominate the forested  
17 landscape.

18 “(b) BIOMASS DEFINITION FOR FEDERAL FOREST  
19 LANDS.—In this section, with respect to organic material  
20 removed from National Forest System lands or from pub-  
21 lic lands administered by the Secretary of the Interior, the  
22 term ‘biomass’ covers only organic material from—

23 “(1) ecological forest restoration;

24 “(2) pre-commercial thinnings;

25 “(3) brush;

26 “(4) mill residues; and

1 “(5) slash.

2 “(c) PILOT PROGRAM.—The Secretary of Agriculture  
3 and the Secretary of the Interior shall establish a pilot  
4 program, to be known as the ‘Biomass Utilization Pilot  
5 Program’, involving 10 different forest types on Federal  
6 Lands, under which the Secretary concerned will provide  
7 technical assistance and grants to persons to support the  
8 following biomass-related activities on Federal lands:

9 “(1) The development of biomass utilization in-  
10 frastructure to support hazardous fuel reduction and  
11 ecological forest restoration.

12 “(2) The research and implementation of inte-  
13 grated facilities that seek to utilize woody biomass  
14 for its highest and best uses, with particular empha-  
15 sis on projects that are linked to implementing com-  
16 munity wildfire protection plans, ecological forest  
17 restoration, and economic development in rural com-  
18 munities.

19 “(3) The testing of multiple technologies and  
20 approaches to biomass utilization for energy, with  
21 emphasis on improving energy efficiency, developing  
22 thermal applications and distributed heat, biofuels,  
23 and achieving cleaner emissions including through  
24 combustion with other alternative fuels, as well as  
25 other value-added uses.

1           “(4) The study of biomass supply.

2           “(d) BIOMASS SUPPLY STUDY.—Prior to the develop-  
3 ment of any biomass utilization pilot projects, the Sec-  
4 retary concerned shall develop a study to determine the  
5 long-term, ecologically sustainable, biomass supply avail-  
6 able in the pilot program area. The study shall also ana-  
7 lyze the long-term availability of biomass materials within  
8 a reasonable transportation distance. The biomass supply  
9 studies shall be developed through a collaborative ap-  
10 proach, as evidenced by the broad involvement, analysis,  
11 and agreement of interested persons, including local gov-  
12 ernments, energy developers, conservationists, and land  
13 management agencies. The results of the biomass supply  
14 study shall be a basis for determining the project scale,  
15 as outlined in subsection (g).

16          “(e) EXCLUSION OF CERTAIN FEDERAL LAND.—The  
17 following Federal lands may not be included within a pilot  
18 project site:

19           “(1) Federal land containing old growth forest  
20 or late successional forest.

21           “(2) Federal land on which the removal of vege-  
22 tation is prohibited, including components of the Na-  
23 tional Wilderness Preservation System.

24           “(3) Wilderness Study Areas.

25           “(4) Inventoried roadless areas.

1           “(5) Components of the National Landscape  
2       Conservation System.

3           “(6) National Monuments.

4       “(f) MULTIPLE PROJECTS.—In conducting the pilot  
5 program, the Secretary concerned shall include a variety  
6 of projects involving—

7           “(1) innovations in facilities of various sizes  
8       and processing techniques; and

9           “(2) the full spectrum of woody biomass pro-  
10       ducing regions of the United States.

11       “(g) SELECTION CRITERIA AND PROJECT SCALE.—  
12 In selecting the projects to be conducted under the pilot  
13 program, and the appropriate scale of projects, the Sec-  
14 retary concerned shall consider criteria that evaluate exist-  
15 ing economic, ecological, and social conditions, focusing on  
16 opportunities such as workforce training, job creation, eco-  
17 system health, and reducing energy costs. The agreement  
18 on the scale of a project shall be reached through a col-  
19 laborative approach, as evidenced by the broad involve-  
20 ment, analysis, and agreement of interested persons, in-  
21 cluding local governments, energy developers, conserva-  
22 tionists, and land management agencies. In selecting the  
23 appropriate scale of projects to be conducted under the  
24 pilot program, the Secretary concerned shall also consider



1 the results of the supply study as outlined in subsection  
2 (d).

3 “(h) MONITORING AND REPORTING REQUIRE-  
4 MENTS.—As part of the pilot program, the Secretary con-  
5 cerned shall impose monitoring and reporting require-  
6 ments to ensure that the ecological, social, and economic  
7 effects of the projects conducted under the pilot program  
8 are being monitored and that the accomplishments, chal-  
9 lenges, and lessons of each project are recorded and re-  
10 ported.

11 “(i) OTHER DEFINITIONS.—In this section:

12 “(1) HIGHEST AND BEST USE.—The term  
13 ‘highest and best use’, with regard to biomass,  
14 means—

15 “(A) creating from raw materials those  
16 products and those biomass uses that will  
17 achieve the highest market value; and

18 “(B) yielding a wide range of existing and  
19 innovative products and biomass uses that cre-  
20 ate new markets, stimulate existing ones, and  
21 improve rural economies, maintains or improves  
22 ecosystem integrity, while also supporting tradi-  
23 tional biomass energy generation.

1           “(2) PILOT PROGRAM.—The term ‘pilot pro-  
2           gram’ means the Biomass Utilization Pilot Program  
3           established pursuant to this section.

4           “(3) SECRETARY CONCERNED.—The term ‘Sec-  
5           retary concerned’ means the Secretary of Agri-  
6           culture, with respect to National Forest System  
7           lands, and the Secretary of the Interior, with respect  
8           to public lands administered by the Secretary of the  
9           Interior.

10          “(4) COMMUNITY WILDFIRE PROTECTION  
11          PLAN.—The term ‘community wildfire protection  
12          plan’ has the meaning given that term in section  
13          101(3) of the Healthy Forest Restoration Act of  
14          2003 (16 U.S.C. 6511(3)), which is further de-  
15          scribed by the Western Governors Association in the  
16          document entitled ‘Preparing a Community Wildfire  
17          Protection Plan: A Handbook for Wildland-Interface  
18          Communities’ and dated March 2004.

19          “(5) FEDERAL LAND.—The term ‘Federal land’  
20          means—

21                 “(A) land of the National Forest System  
22                 (as defined in section 11(a) of the Forest and  
23                 Rangeland Renewable Resources Planning Act  
24                 of 1974 (16 U.S.C. 1609(a)) administered by

1 the Secretary of Agriculture, acting through the  
2 Chief of the Forest Service; and

3 “(B) public lands (as defined in section  
4 103 of the Federal Land Policy and Manage-  
5 ment Act of 1976 (43 U.S.C. 1702)), the sur-  
6 face of which is administered by the Secretary  
7 of the Interior, acting through the Director of  
8 the Bureau of Land Management.

9 “(6) INVENTORIED ROADLESS AREA.—The  
10 term ‘Inventoried roadless area’ means one of the  
11 areas identified in the set of inventoried roadless  
12 areas maps contained in the Forest Service Roadless  
13 Areas Conservation, Final Environmental Impact  
14 Statement, Volume 2, dated November 2000.

15 “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
16 is authorized to be appropriated such sums as may be nec-  
17 essary to carry out the pilot program.”.

18 (b) CLERICAL AMENDMENT.—The table of contents  
19 in section 1(b) of such Act is amended by striking the  
20 item relating to section 210 and inserting the following  
21 new item:

“210. Biomass utilization pilot program.”.

1 **TITLE IV—CARBON CAPTURE**  
2 **AND CLIMATE CHANGE MITI-**  
3 **GATION**

4 **Subtitle A—Geological**  
5 **Sequestration Assessment**

6 **SEC. 401. SHORT TITLE.**

7 This subtitle may be cited as the “National Carbon  
8 Dioxide Storage Capacity Assessment Act of 2007”.

9 **SEC. 402. NATIONAL ASSESSMENT.**

10 (a) DEFINITIONS.—In this section:

11 (1) ASSESSMENT.—The term “assessment”  
12 means the national assessment of capacity for car-  
13 bon dioxide completed under subsection (f).

14 (2) CAPACITY.—The term “capacity” means the  
15 portion of a storage formation that can retain car-  
16 bon dioxide in accordance with the requirements (in-  
17 cluding physical, geological, and economic require-  
18 ments) established under the methodology developed  
19 under subsection (b).

20 (3) ENGINEERED HAZARD.—The term “engi-  
21 neered hazard” includes the location and completion  
22 history of any well that could affect potential stor-  
23 age.

1           (4) RISK.—The term “risk” includes any risk  
2       posed       by       geomechanical,       geochemical,  
3       hydrogeological, structural, and engineered hazards.

4           (5) SECRETARY.—The term “Secretary” means  
5       the Secretary of the Interior, acting through the Di-  
6       rector of the United States Geological Survey.

7           (6) STORAGE FORMATION.—The term “storage  
8       formation” means a deep saline formation,  
9       unmineable coal seam, or oil or gas reservoir that is  
10      capable of accommodating a volume of industrial  
11      carbon dioxide.

12       (b) METHODOLOGY.—Not later than 1 year after the  
13      date of enactment of this Act, the Secretary shall develop  
14      a methodology for conducting an assessment under sub-  
15      section (f), taking into consideration—

16           (1) the geographical extent of all potential stor-  
17      age formations in all States;

18           (2) the capacity of the potential storage forma-  
19      tions;

20           (3) the injectivity of the potential storage for-  
21      mations;

22           (4) an estimate of potential volumes of oil and  
23      gas recoverable by injection and storage of industrial  
24      carbon dioxide in potential storage formations;

1           (5) the risk associated with the potential stor-  
2     age formations; and

3           (6) the Carbon Sequestration Atlas of the  
4     United States and Canada that was completed by  
5     the Department of Energy in April 2006.

6     (c) COORDINATION.—

7           (1) FEDERAL COORDINATION.—

8           (A) CONSULTATION.—The Secretary shall  
9     consult with the Secretary of Energy and the  
10    Administrator of the Environmental Protection  
11    Agency on issues of data sharing, format, devel-  
12    opment of the methodology, and content of the  
13    assessment required under this section to en-  
14    sure the maximum usefulness and success of  
15    the assessment.

16          (B) COOPERATION.—The Secretary of En-  
17    ergy and the Administrator shall cooperate with  
18    the Secretary to ensure, to the maximum extent  
19    practicable, the usefulness and success of the  
20    assessment.

21          (2) STATE COORDINATION.—The Secretary  
22    shall consult with State geological surveys and other  
23    relevant entities to ensure, to the maximum extent  
24    practicable, the usefulness and success of the assess-  
25    ment.

1 (d) EXTERNAL REVIEW AND PUBLICATION.— On  
2 completion of the methodology under subsection (b), the  
3 Secretary shall—

4 (1) publish the methodology and solicit com-  
5 ments from the public and the heads of affected  
6 Federal and State agencies;

7 (2) establish a panel of individuals with exper-  
8 tise in the matters described in paragraphs (1)  
9 through (5) of subsection (b) composed, as appro-  
10 priate, of representatives of Federal agencies, insti-  
11 tutions of higher education, nongovernmental organi-  
12 zations, State organizations, industry, and inter-  
13 national geoscience organizations to review the  
14 methodology and comments received under para-  
15 graph (1); and

16 (3) on completion of the review under para-  
17 graph (2), publish in the Federal Register the re-  
18 vised final methodology.

19 (e) PERIODIC UPDATES.—The methodology devel-  
20 oped under this section shall be updated periodically (in-  
21 cluding at least once every 5 years) to incorporate new  
22 data as the data becomes available.

23 (f) NATIONAL ASSESSMENT.—

24 (1) IN GENERAL.—Not later than 2 years after  
25 the date of publication of the methodology under

1 subsection (d)(1), the Secretary, in consultation with  
2 the Secretary of Energy and State geological sur-  
3 veys, shall complete a national assessment of capac-  
4 ity for carbon dioxide in accordance with the meth-  
5 odology.

6 (2) GEOLOGICAL VERIFICATION.—As part of  
7 the assessment under this subsection, the Secretary  
8 shall carry out a drilling program to supplement the  
9 geological data relevant to determining storage ca-  
10 pacity of carbon dioxide in geological storage forma-  
11 tions, including—

12 (A) well log data;

13 (B) core data; and

14 (C) fluid sample data.

15 (3) PARTNERSHIP WITH OTHER DRILLING PRO-  
16 GRAMS.—As part of the drilling program under  
17 paragraph (2), the Secretary shall enter, as appro-  
18 priate, into partnerships with other entities to collect  
19 and integrate data from other drilling programs rel-  
20 evant to the storage of carbon dioxide in geologic  
21 formations.

22 (4) INCORPORATION INTO NATCARB.—

23 (A) IN GENERAL.—On completion of the  
24 assessment, the Secretary of Energy shall incor-  
25 porate the results of the assessment using the



1 NatCarb database, to the maximum extent  
2 practicable.

3 (B) RANKING.—The database shall include  
4 the data necessary to rank potential storage  
5 sites for capacity and risk, across the United  
6 States, within each State, by formation, and  
7 within each basin.

8 (5) REPORT.—Not later than 180 days after  
9 the date on which the assessment is completed, the  
10 Secretary shall submit to the Committee on Natural  
11 Resources of the House of Representatives and the  
12 Committee on Energy and Natural Resources of the  
13 Senate a report describing the findings under the as-  
14 sessment.

15 (6) PERIODIC UPDATES.—The national assess-  
16 ment developed under this section shall be updated  
17 periodically (including at least once every 5 years) to  
18 support public and private sector decisionmaking.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out this section  
21 \$30,000,000 for the period of fiscal years 2008 through  
22 2012.

## **Subtitle B—Terrestrial Sequestration Assessment**

### **SEC. 421. REQUIREMENT TO CONDUCT AN ASSESSMENT.**

(a) IN GENERAL.—The Secretary of the Interior, acting through the United States Geological Survey, shall—

(1) conduct an assessment of the amount of carbon stored in terrestrial, aquatic, and coastal ecosystems (including estuaries);

(2) determine the processes that control the flux of carbon in and out of each ecosystem;

(3) estimate the potential for increasing carbon sequestration in natural systems through management measures or restoration activities in each ecosystem; and

(4) develop near-term and long-term adaptation strategies that can be employed to enhance the sequestration of carbon in each ecosystem.

(b) USE OF NATIVE PLANT SPECIES.—In developing management measures, restoration activities, or adaptation strategies, the Secretary shall emphasize the use of native plant species for each ecosystem.

(c) CONSULTATION.—The Secretary shall develop the methodology and conduct the assessment in consultation with the Secretary of Energy, the Administrator of the

1 National Oceanic and Atmospheric Administration, and  
2 the heads of other relevant agencies.

3 **SEC. 422. METHODOLOGY.**

4 (a) IN GENERAL.—Within 270 days after the date  
5 of enactment of this Act, the Secretary shall develop a  
6 methodology for conducting the assessment.

7 (b) PUBLICATION OF PROPOSED METHODOLOGY;  
8 COMMENT.—Upon completion of a proposed methodology,  
9 the Secretary shall publish the proposed methodology and  
10 solicit comments from the public and heads of affected  
11 Federal and State agencies for 60 days before publishing  
12 a final methodology.

13 **SEC. 423. COMPLETION OF ASSESSMENT AND REPORT.**

14 The Secretary shall—

15 (1) complete the national assessment within 2  
16 years after publication of the final methodology  
17 under section 422; and

18 (2) submit a report describing the results of the  
19 assessment to the House Committee on Natural Re-  
20 sources and the Senate Committee on Energy and  
21 Natural Resources within 180 days after the assess-  
22 ment is completed.

## **Subtitle C—Sequestration Activities**

### **SEC. 431. CARBON DIOXIDE STORAGE INVENTORY.**

Section 354 of the Energy Policy Act of 2005 (42 U.S.C. 15910) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

“(c) RECORDS AND INVENTORY.—The Secretary of the Interior, acting through the Bureau of Land Management, shall maintain records on and an inventory of the amount of carbon dioxide stored from Federal leases.”.

### **SEC. 432. FRAMEWORK FOR GEOLOGICAL CARBON SEQUESTRATION ON FEDERAL LANDS.**

Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on a recommended regulatory and certification framework for conducting geological carbon sequestration activities on Federal lands. The Secretary shall identify a lead agency within the Department of the Interior to develop this framework. One of the goals of the framework shall be to identify what actions need to be taken in order to allow for commercial-

1 scale geological carbon sequestration activities to be un-  
 2 dertaken on Federal lands as expeditiously as possible.

## 3 **Subtitle D—Wildlife Programs**

### 4 **CHAPTER 1—NATIONAL POLICY AND** 5 **STRATEGY**

#### 6 **SEC. 441. SHORT TITLE.**

7 This chapter may be cited as the “Global Warming  
 8 Wildlife Survival Act”.

#### 9 **SEC. 442. NATIONAL POLICY ON WILDLIFE AND GLOBAL** 10 **WARMING.**

11 It is the policy of the Federal Government, in co-  
 12 operation with State, tribal, and affected local govern-  
 13 ments, other concerned public and private organizations,  
 14 landowners, and citizens to use all practicable means and  
 15 measures—

16 (1) to assist wildlife populations in adapting to  
 17 and surviving the effects of global warming; and

18 (2) to ensure the persistence and resilience of  
 19 the wildlife of the United States as an essential part  
 20 of our Nation’s culture, landscape, and natural re-  
 21 sources.

#### 22 **SEC. 443. DEFINITIONS.**

23 In this chapter:

24 (1) **ECOLOGICAL PROCESSES.**—The term “eco-  
 25 logical processes” means the biological, chemical,

1 and physical interactions between the biotic and abi-  
2 otic components of ecosystems, including nutrient  
3 cycling, pollination, predator-prey relationships, soil  
4 formation, gene flow, hydrologic cycling, decomposi-  
5 tion, and disturbance regimes such as fire and flood-  
6 ing.

7 (2) HABITAT LINKAGES.—The term “habitat  
8 linkages” means areas that connect wildlife habitat  
9 or potential wildlife habitat, and that facilitate the  
10 ability of wildlife to move within a landscape in re-  
11 sponse to the effects of global warming.

12 (3) SECRETARY.—The term “Secretary” means  
13 the Secretary of the Interior.

14 (4) WILDLIFE.—The term “wildlife” means any  
15 species of wild, free-ranging fauna including fish,  
16 and also fauna in captive breeding programs the ob-  
17 ject of which is to reintroduce individuals of a de-  
18 pleted indigenous species into previously occupied  
19 range.

20 **SEC. 444. NATIONAL STRATEGY.**

21 (a) REQUIREMENT.—

22 (1) IN GENERAL.—The Secretary shall, within  
23 two years after the date of the enactment of this  
24 Act, on the basis of the best available science as pro-  
25 vided by the science advisory board under section

1 445, promulgate a national strategy for mitigating  
2 the impacts of global warming on wildlife popu-  
3 lations in the United States.

4 (2) CONSULTATION AND COMMENT.—In devel-  
5 oping the national strategy, the Secretary shall—

6 (A) consult with the Secretary of Agri-  
7 culture, the Secretary of Commerce, the Admin-  
8 istrator of the Environmental Protection Agen-  
9 cy, State fish and wildlife agencies, Indian  
10 tribes, local governments, conservation organi-  
11 zations, scientists, and other interested stake-  
12 holders; and

13 (B) provide opportunity for public com-  
14 ment.

15 (b) CONTENTS.—

16 (1) IN GENERAL.—The Secretary shall include  
17 in the national strategy prioritized goals and meas-  
18 ures to—

19 (A) identify and monitor wildlife popu-  
20 lations likely to be adversely affected by global  
21 warming;

22 (B) identify and monitor coastal, marine,  
23 terrestrial, and freshwater resources and habi-  
24 tat at greatest risk of being damaged by global  
25 warming;

1 (C) assist species in adapting to the im-  
2 pacts of global warming;

3 (D) protect, acquire, and restore wildlife  
4 habitat to build resilience to global warming;

5 (E) provide habitat linkages and corridors  
6 to facilitate wildlife movements in response to  
7 global warming;

8 (F) restore and protect ecological processes  
9 that sustain wildlife populations vulnerable to  
10 global warming; and

11 (G) incorporate consideration of climate  
12 change in, and integrate climate change adapta-  
13 tion strategies for wildlife into, the planning  
14 and management of Federal lands administered  
15 by the Department of the Interior and lands  
16 administered by the Forest Service.

17 (2) COORDINATION WITH OTHER PLANS.—In  
18 developing the national strategy, the Secretary  
19 shall—

20 (A) take into consideration research and  
21 information in State comprehensive wildlife con-  
22 servation plans, the North American Waterfowl  
23 Management Plan, the National Fish Habitat  
24 Action Plan, and other relevant wildlife con-  
25 servation plans; and



1 (B) coordinate and integrate, to the extent  
2 practicable and consistent with the policy set  
3 forth in section 442, the goals and measures  
4 identified in the national strategy with goals  
5 and measures identified in such plans.

6 (c) REVISION.—The Secretary shall revise the na-  
7 tional strategy not later than five years after its initial  
8 promulgation, and not later than every ten years there-  
9 after, to reflect new information on the impacts of global  
10 warming on wildlife and advances in the development of  
11 strategies for adapting to or mitigating for such impacts.

12 (d) IMPLEMENTATION.—

13 (1) IMPLEMENTATION ON DEPARTMENT OF  
14 THE INTERIOR AND FOREST SERVICE LANDS.—To  
15 achieve the goals of the national strategy and to im-  
16 plement measures for the conservation of wildlife  
17 identified in the national strategy—

18 (A) the Secretary shall exercise the author-  
19 ity of such Secretary under this and other Acts  
20 on lands administered by the National Park  
21 Service, the United States Fish and Wildlife  
22 Service, and the Bureau of Land Management;  
23 and

24 (B) the Secretary of Agriculture shall exer-  
25 cise the authority of such Secretary under this

1           and other Acts on lands administered by the  
2           Forest Service.

3           (2) WILDLIFE CONSERVATION PROGRAMS.—  
4           Consistent with their authorities under other laws,  
5           the Secretary, the Secretary of Agriculture, and the  
6           Secretary of Commerce shall administer wildlife con-  
7           servation programs authorized under other laws to  
8           achieve the goals of the national strategy and to im-  
9           plement measures for the conservation of wildlife  
10          identified in the national strategy.

11 **SEC. 445. ADVISORY BOARD.**

12          (a) SCIENCE ADVISORY BOARD.—

13           (1) IN GENERAL.—The Secretary shall establish  
14           and appoint the members of a science advisory board  
15           comprised of not less than ten and not more than  
16           twenty members recommended by the President of  
17           the National Academy of Sciences with expertise in  
18           wildlife biology, ecology, climate change and other  
19           relevant disciplines. The director of the National  
20           Global Warming and Wildlife Science Center estab-  
21           lished under subsection (b) shall be an ex officio  
22           member of the science advisory board.

23           (2) FUNCTIONS.—The science advisory board  
24           shall—

1           (A) provide scientific and technical advice  
2           and recommendations to the Secretary on the  
3           impacts of global warming on wildlife and its  
4           habitat, areas of habitat of particular impor-  
5           tance for the conservation of wildlife popu-  
6           lations affected by global warming, and strate-  
7           gies and mechanisms to mitigate the impacts of  
8           global warming on wildlife in the management  
9           of Federal lands and in other Federal programs  
10          for wildlife conservation;

11          (B) advise the National Global Warming  
12          and Wildlife Science Center established under  
13          subsection (b) and review the quality of the re-  
14          search programs of the Center;

15          (C) advise the Secretary regarding the best  
16          science available for purposes of section  
17          444(a)(1).

18          (b) NATIONAL GLOBAL WARMING AND WILDLIFE  
19          SCIENCE CENTER.—

20               (1) IN GENERAL.—The Secretary shall establish  
21          the National Global Warming and Wildlife Science  
22          Center within the United States Geological Survey.

23               (2) FUNCTIONS.—The National Global Warm-  
24          ing and Wildlife Science Center shall—

1 (A) conduct scientific research on national  
2 issues related to the impacts of global warming  
3 on wildlife and its habitat and mechanisms for  
4 adaptation or mitigation of such impacts; and

5 (B) provide scientific support to Federal  
6 land management agencies and Federal wildlife  
7 agencies regarding such issues.

8 (c) DETECTION OF CHANGES.—The Secretary, the  
9 Secretary of Agriculture, and the Secretary of Commerce  
10 shall each exercise authorities under other laws to carry  
11 out programs to detect changes in wildlife abundance, dis-  
12 tribution, and behavior related to global warming, includ-  
13 ing—

14 (1) conducting species inventories on Federal  
15 lands and in marine areas within the exclusive eco-  
16 nomic zone of the United States; and

17 (2) establishing and implementing robust, co-  
18 ordinated monitoring programs.

19 **SEC. 446. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IMPLEMENTATION OF NATIONAL STRATEGY.—Of  
21 the amounts appropriated to carry out this chapter for  
22 each fiscal year—

23 (1) 45 percent are authorized to be made avail-  
24 able to Federal agencies to develop and implement

1 the national strategy promulgated under section 444  
2 on Federal lands, of which—

3 (A) 35 percent shall be allocated to the  
4 Department of the Interior to—

5 (i) operate the National Global Warm-  
6 ing and Wildlife Science Center established  
7 under section 445; and

8 (ii) carry out the policy set forth in  
9 section 442 and implement the national  
10 strategy on lands within the National Park  
11 System, lands within the National Wildlife  
12 Refuge System, and public lands adminis-  
13 tered by the Bureau of Land Management;  
14 and

15 (B) 10 percent shall be allocated to the  
16 Department of Agriculture to carry out the pol-  
17 icy set forth in section 442 and implement the  
18 national strategy on lands within the National  
19 Forest System;

20 (2) 25 percent are authorized to be made avail-  
21 able to Federal agencies to carry out the policy set  
22 forth in section 442 and to implement the national  
23 strategy through fish and wildlife programs, other  
24 than for the operation and maintenance of Federal  
25 lands, of which—

1           (A) 10 percent shall be allocated to the  
2           Department of the Interior to fund endangered  
3           species, migratory bird, and other fish and wild-  
4           life programs administered by the United  
5           States Fish and Wildlife Service, other than op-  
6           erations and maintenance of the national wild-  
7           life refuges;

8           (B) 8 percent shall be allocated to the De-  
9           partment of the Interior for implementation of  
10          cooperative grant programs benefitting wildlife  
11          including the Cooperative Endangered Species  
12          Fund, Private Stewardship Grants, the North  
13          American Wetlands Conservation Act, the  
14          Neotropical Migratory Bird Conservation Fund,  
15          and the National Fish Habitat Action Plan,  
16          and used exclusively for activities that address  
17          the impacts of global warming on wildlife and  
18          its habitat; and

19          (C) 7 percent shall be allocated to the Na-  
20          tional Oceanic and Atmospheric Administration  
21          to carry out the policy set forth in section 442  
22          and to implement the national strategy through  
23          Federal programs for conservation of fish and  
24          wildlife under its jurisdiction; and

1           (3) 30 percent are authorized to be made avail-  
 2           able for grants to States and Indian tribes through  
 3           the State and Tribal Wildlife Grants Program au-  
 4           thorized under section 451, to—

5                   (A) be used exclusively to carry out activi-  
 6           ties that address the impacts of global warming  
 7           on wildlife in accordance with State comprehen-  
 8           sive wildlife conservation plans developed and  
 9           approved under that program that contain ex-  
 10          plicit strategies for addressing the impacts of  
 11          global warming on wildlife; and

12                   (B) revise existing State comprehensive  
 13          wildlife conservation plans as necessary to in-  
 14          clude specific strategies for addressing the im-  
 15          pacts of global warming on wildlife.

16          (b) AVAILABILITY.—

17          (c) INTENT OF CONGRESS.—It is the intent of Con-  
 18          gress that funding provided to Federal agencies and  
 19          States pursuant to this chapter supplement, and not re-  
 20          place, existing sources of funding for wildlife conservation.

## 21           **CHAPTER 2—STATE AND TRIBAL**

## 22           **WILDLIFE GRANTS PROGRAM**

### 23          **SEC. 451. STATE AND TRIBAL WILDLIFE GRANTS PROGRAM.**

24           (a) AUTHORIZATION OF PROGRAM.—There is author-  
 25          ized to be established a State and Tribal Wildlife Grants

1 Program to be administered by the Secretary of the Inte-  
2 rior and to provide wildlife conservation grants to States  
3 and to the District of Columbia, Puerto Rico, Guam, the  
4 United States Virgin Islands, the Northern Mariana Is-  
5 lands, American Samoa, and federally recognized Indian  
6 tribes for the planning, development, and implementation  
7 of programs for the benefit of wildlife and their habitat,  
8 including species that are not hunted or fished.

9 (b) ALLOCATION OF FUNDS.—

10 (1) IN GENERAL.—Of the amounts made avail-  
11 able to carry out this section for each fiscal year—

12 (A) 10 percent shall be for a competitive  
13 grant program for Indian tribes that are not  
14 subject to the remaining provisions of this sec-  
15 tion;

16 (B) of the amounts remaining after the ap-  
17 plication of subparagraph (A), and after the de-  
18 duction of the Secretary's administrative ex-  
19 penses to carry out this section—

20 (i) not more than one-half of 1 per-  
21 cent shall be allocated to each of the Dis-  
22 trict of Columbia and to the Common-  
23 wealth of Puerto Rico; and

24 (ii) not more than one-fourth of 1 per-  
25 cent shall be allocated to each of Guam,



1 American Samoa, the United States Virgin  
2 Islands, and the Commonwealth of the  
3 Northern Mariana Islands;

4 (C) of the amount remaining after the ap-  
5 plication of subparagraphs (B) and (C), the  
6 Secretary shall apportion among the States—

7 (i) one-third based on the ratio that  
8 the land area of each State bears to the  
9 total land area of all States; and

10 (ii) two-thirds based on the ratio that  
11 the population of each State bears to the  
12 total population of all States.

13 (2) ADJUSTMENTS.—The amounts apportioned  
14 under subparagraph (C) of paragraph (1) for a fis-  
15 cal year shall be adjusted equitably so that no State  
16 is apportioned under such subparagraph a sum that  
17 is—

18 (A) less than 1 percent of the amount  
19 available for apportionment under that subpara-  
20 graph that fiscal year; or

21 (B) more than 5 percent of such amount.

22 (c) COST SHARING.—

23 (1) PLAN DEVELOPMENT GRANTS.—The Fed-  
24 eral share of the costs of developing a comprehensive

1 wildlife conservation plan shall not exceed 75 per-  
2 cent of the total costs of developing such plan.

3 (2) PLAN IMPLEMENTATION GRANTS.—The  
4 Federal share of the costs of implementing an activ-  
5 ity in an approved comprehensive wildlife conserva-  
6 tion plan carried out with a grant under this section  
7 shall not exceed 50 percent of the total costs of such  
8 activities.

9 (3) PROHIBITION ON USE OF FEDERAL  
10 FUNDS.—The non-Federal share of costs of an activ-  
11 ity carried out under this section shall not be paid  
12 with amounts derived from any Federal grant pro-  
13 gram.

14 (d) REQUIREMENT FOR PLAN.—

15 (1) IN GENERAL.—No State, territory, or other  
16 jurisdiction shall be eligible for a grant under this  
17 section unless it submits to the Secretary a com-  
18 prehensive wildlife conservation plan that—

19 (A) complies with paragraph (2); and

20 (B) considers the broad range of the State,  
21 territory, or other jurisdiction's wildlife and as-  
22 sociated habitats, with appropriate priority  
23 placed on those species with the greatest con-  
24 servation need and taking into consideration the

1 relative level of funding available for the con-  
2 servation of those species.

3 (2) CONTENTS.—The comprehensive wildlife  
4 conservation plan must contain—

5 (A) information on the distribution and  
6 abundance of species of wildlife, including low  
7 and declining populations as the State , terri-  
8 tory, or other jurisdiction’s fish and wildlife  
9 agency considers appropriate, that are indic-  
10 ative of the diversity and health of the jurisdic-  
11 tion’s wildlife;

12 (B) the location and relative condition of  
13 key habitats and community types essential to  
14 conservation of species identified in subpara-  
15 graph (A);

16 (C) descriptions of problems which may  
17 adversely affect species identified in subpara-  
18 graph (A) or their habitats, and priority re-  
19 search and survey efforts needed to identify fac-  
20 tors that may assist in restoration and im-  
21 proved conservation of these species and habi-  
22 tats;

23 (D) descriptions of conservation actions  
24 proposed to conserve the identified species and

1 habitats and priorities for implementing such  
2 actions;

3 (E) proposed plans for monitoring species  
4 identified in subparagraph (A) and their habi-  
5 tats, for monitoring the effectiveness of the con-  
6 servation actions proposed in subparagraph  
7 (D), and for adapting these conservation ac-  
8 tions to respond appropriately to new informa-  
9 tion or changing conditions;

10 (F) descriptions of procedures to review  
11 the comprehensive wildlife conservation plan at  
12 intervals not to exceed ten years;

13 (G) plans for coordinating the develop-  
14 ment, implementation, review, and revision of  
15 the comprehensive wildlife conservation plan  
16 with Federal, State, and local agencies and In-  
17 dian tribes that manage significant land and  
18 water areas within the jurisdiction or admin-  
19 ister programs that significantly affect the con-  
20 servation of identified species and habitats; and

21 (H) provisions for broad public participa-  
22 tion as an essential element of the development,  
23 revision, and implementation of the comprehen-  
24 sive wildlife conservation plan.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as are nec-  
3 essary to carry out this section.

4 **Subtitle E—Miscellaneous**

5 **SEC. 461. CLIMATE CHANGE ADAPTABILITY INTRA-GOV-**  
6 **ERNMENTAL PANEL.**

7 (a) ESTABLISHMENT.—The Secretary of the Interior  
8 shall establish a Climate Change Adaptability Intra-Gov-  
9 ernmental Panel to address the impacts of climate change  
10 on Federal lands, the ocean environment, and the Federal  
11 water infrastructure under the jurisdiction of the Sec-  
12 retary. The panel shall include the agency heads from the  
13 following:

- 14 (1) The Bureau of Land Management.  
15 (2) The National Park Service.  
16 (3) United States Geological Survey.  
17 (4) The Fish and Wildlife Service.  
18 (5) The Forest Service.  
19 (6) The National Oceanic and Atmospheric Ad-  
20 ministration.

21 (7) The Bureau of Reclamation.

22 (8) The Council on Environmental Quality.

23 (b) PLAN.—Not later than one year after the date  
24 of the enactment of this Act, the Secretary of the Interior  
25 shall submit a plan to Congress describing what each

1 agency listed in subsection (a) shall do to accomplish the  
2 following:

3 (1) Working in cooperation with the United  
4 States Geological Survey, develop an intra-agency in-  
5 ventory and Geographic Information System data-  
6 base of United States ecosystems, water supplies,  
7 and water infrastructure vulnerable to climate  
8 change.

9 (2) Request that the United States Geological  
10 Survey examine impacts of climate change on wild-  
11 life through the GAP analysis program to develop  
12 better information land acquisition strategies.

13 (3) Manage land, water, and ocean resources  
14 during prolonged periods of drought, changing hy-  
15 drology, and in the case of oceans, increasing ocean  
16 acidification.

17 (4) Proactively address and mitigate the im-  
18 pacts of climate change on key ecosystems that are  
19 critical wildlife habitat and watersheds.

20 (5) Develop consistent protocols to incorporate  
21 climate change impacts in land and water manage-  
22 ment decisions across land and water resources  
23 under the jurisdiction of those agencies listed in sub-  
24 section (a).

1           (6) Incorporate the most current, peer-reviewed  
2       science on climate change and the economic, social,  
3       and ecological impacts of climate change into the de-  
4       cision making process of those agencies listed in sub-  
5       section (a).

6   **SEC. 462. OCEAN POLICY AND GLOBAL WARMING PRO-**  
7                           **GRAM.**

8       (a) IN GENERAL.—There is authorized to be estab-  
9       lished an Ocean Policy and Global Warming Program to  
10      be administered by the Secretary of Commerce. The pur-  
11      pose of the program is to support coastal state and Fed-  
12      eral agency efforts to—

13           (1) plan for and mitigate the impacts to the  
14      marine and coastal environment from global warm-  
15      ing and the development of offshore alternative en-  
16      ergy resources; and

17           (2) cooperate and collaborate to support im-  
18      proved and enhanced ocean and coastal management  
19      in the United States.

20      (b) ALLOCATION OF FUNDING.—Of the amounts  
21      made available for each fiscal year to carry out the pro-  
22      gram, the Secretary shall allocate, for the exclusive pur-  
23      pose of carrying out the activities specified in subsection  
24      (a)—

1           (1) 40 percent to the National Oceanic and At-  
2       mospheric Administration for allocation to coastal  
3       states based on the formula established in subsection  
4       (c);

5           (2) 40 percent to the National Oceanic and At-  
6       mospheric Administration; and

7           (3) 20 percent to support regional collaboratives  
8       intended to improve and enhance ocean and coastal  
9       management and that include Federal, State, and  
10      local entities.

11       (c) ALLOCATION OF FUNDS.—Funds made available  
12   under subsection (b)(1) shall be allocated according to the  
13   formula established in regulation pursuant to section  
14   306(c) of the Coastal Zone Management Act of 1972 (16  
15   U.S.C. 1455(c)).

16       (d) INTENT OF CONGRESS TO SUPPLEMENT ANNUAL  
17   APPROPRIATIONS.—Amounts appropriated under this sec-  
18   tion are intended by Congress to supplement, not detract  
19   from or replace, other annual appropriations for Federal  
20   agencies and coastal states receiving funding under this  
21   section.

22       (e) DEFINITION OF COASTAL STATE.—The term  
23   “coastal state” has the meaning it has in section 304(4)  
24   (c) of the Coastal Zone Management Act of 1972 (16  
25   U.S.C. 1453(4)).



1 **SEC. 463. PLANNING FOR CLIMATE CHANGE IN THE COAST-**  
2 **AL ZONE.**

3 (a) IN GENERAL.—The Coastal Zone Management  
4 Act of 1972 (16 U.S.C. 1451 et seq.) is amended by add-  
5 ing at the end the following:

6 “CLIMATE CHANGE RESILIENCY PLANNING

7 “SEC. 320. (a) IN GENERAL.—The Secretary shall  
8 establish consistent with the national policies set forth in  
9 section 303 a coastal climate change resiliency planning  
10 and response program to

11 “(1) provide assistance to coastal states to vol-  
12 untarily develop coastal climate change resiliency  
13 plans as amendments to management programs ap-  
14 proved under section 306, to prepare for and reduce  
15 the negative consequences that may result from cli-  
16 mate change in the coastal zone; and

17 “(2) provide financial and technical assistance  
18 to enable coastal states to implement plans devel-  
19 oped pursuant to this section through coastal states’  
20 enforceable policies.

21 “(b) GUIDELINES.—Within 180 days after the date  
22 of enactment of this section, the Secretary, in consultation  
23 with the coastal states, shall issue guidelines for the imple-  
24 mentation of the grant program established under sub-  
25 section (c).

1       “(c) CLIMATE CHANGE RESILIENCY PLANNING  
2 GRANTS.—

3           “(1) IN GENERAL.—The Secretary, subject to  
4 the availability of appropriations, may make a grant  
5 to any coastal state for the purpose of developing cli-  
6 mate change resiliency plans pursuant to guidelines  
7 issued by the Secretary under subsection (b).

8           “(2) PLAN CONTENT.—A plan developed with a  
9 grant under this section shall include the following:

10           “(A) Identification of public facilities and  
11 public services, coastal resources of national  
12 significance, coastal waters, energy facilities, or  
13 other water uses located in the coastal zone  
14 that are likely to be impacted by climate  
15 change.

16           “(B) Adaptive management strategies for  
17 land use to address non-climate change stresses  
18 that inhibit the ability of the coastal zone to re-  
19 spond or adapt to changing environmental con-  
20 ditions, including strategies to protect biodiver-  
21 sity and establish habitat buffer zones, migra-  
22 tion corridors, and climate refugia.

23           “(C) Requirements to initiate and main-  
24 tain long-term monitoring of environmental  
25 change to assess coastal zone resiliency and to

1           adjust when necessary adaptive management  
2           strategies to attain the policies under section  
3           303.

4           “(3) ALLOCATION.—Grants under this section  
5           shall be available only to coastal states with manage-  
6           ment programs approved by the Secretary under sec-  
7           tion 306 and shall be allocated among such coastal  
8           states in a manner consistent with regulations pro-  
9           mulgated pursuant to section 306(c).

10          “(4) PRIORITY.—In the awarding of grants  
11          under this subsection the Secretary may give priority  
12          to any coastal state that has received grant funding  
13          to develop program changes pursuant to paragraphs  
14          (1), (2), (3), (5), (6), (7), and (8) of section 309(a).

15          “(5) TECHNICAL ASSISTANCE.—The Secretary  
16          may provide technical assistance to a coastal state  
17          consistent with section 310 to ensure the timely de-  
18          velopment of plans supported by grants awarded  
19          under this subsection.

20          “(6) FEDERAL APPROVAL.—In order to be eligi-  
21          ble for a grant under subsection (d), a coastal state  
22          must have its plan developed under this section ap-  
23          proved by the Secretary under regulations adopted  
24          pursuant to section 306(e).

25          “(d) COASTAL RESILIANCY PROJECT GRANTS.—

1           “(1) IN GENERAL.—The Secretary, subject to  
2           the availability of appropriations, may make grants  
3           to any coastal state that has a climate change resil-  
4           iency plan approved under subsection (c)(6), in  
5           order to support projects that implement strategies  
6           contained within such plans.

7           “(2) PROGRAM REQUIREMENTS.—The Sec-  
8           retary within 90 days after approval of the first plan  
9           approved under subsection (c)(6), shall publish in  
10          the Federal Register requirements regarding appli-  
11          cations, eligible activities and all terms and condi-  
12          tions for grants awarded under this subsection.

13          “(3) ELIGIBLE ACTIVITIES.—The Secretary may  
14          award grants to coastal states to implement projects  
15          in the coastal zone to address stress factors in order  
16          to improve coastal climate change resiliency, includ-  
17          ing the following:

18               “(A) Physical disturbances within the  
19               coastal zone, especially activities related to pub-  
20               lic facilities and public services, tourism, sedi-  
21               mentation, and other factors negatively impact-  
22               ing coastal waters, and fisheries-associated  
23               habitat destruction or alteration.

24               “(B) Monitoring, control, or eradication of  
25               disease organisms and invasive species.

1 “(C) Activities to address the loss, deg-  
2 radation or fragmentation of wildlife habitat  
3 through projects to establish marine and terres-  
4 trial habitat buffers, wildlife refugia or net-  
5 works thereof, and preservation of migratory  
6 wildlife corridors and other transition zones.

7 “(D) Implementation of projects to reduce,  
8 mitigate, or otherwise address likely impacts  
9 caused by natural hazards in the coastal zone,  
10 including sea level rise, coastal inundation,  
11 coastal erosion and subsidence, severe weather  
12 events such as cyclonic storms, tsunamis and  
13 other seismic threats, and fluctuating Great  
14 Lake water levels.”.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
16 318(a) of the Coastal Zone Management Act of 1972 (16  
17 U.S.C. 1464) is further amended by adding at the end  
18 the following:

19 “(4) for grants under section 320 (c) and (d),  
20 such sums as are necessary.”.

21 **SEC. 464. ENHANCING CLIMATE CHANGE PREDICTIONS.**

22 (a) SHORT TITLE.—This section may be cited as the  
23 “National Integrated Coastal and Ocean Observation Act  
24 of 2007”.

1 (b) PURPOSES.—The purposes of this section are the  
2 following:

3 (1) Establish a National Integrated Coastal and  
4 Ocean Observation System comprised of Federal and  
5 non-Federal components, coordinated at the regional  
6 level by a network of Regional Information Coordi-  
7 nation Entities, that includes in situ, remote, and  
8 other coastal and ocean observations, technologies,  
9 and data management and communication systems,  
10 to gather daily specific coastal and ocean data vari-  
11 ables and to ensure the timely dissemination and  
12 availability of usable observation data to support na-  
13 tional defense, marine commerce, energy production,  
14 scientific research, ecosystem-based marine and  
15 coastal resource management, and public safety and  
16 to promote the general public welfare.

17 (2) Improve the Nation’s capability to measure,  
18 track, explain, and predict events related directly  
19 and indirectly to climate change, natural climate  
20 variability, and interactions between the oceanic and  
21 atmospheric environments, including the Great  
22 Lakes.

23 (3) Authorize activities to promote basic and  
24 applied research to develop, test, and deploy innova-  
25 tions and improvements in coastal and ocean obser-

1 vation technologies, modeling systems, and other sci-  
2 entific and technological capabilities to improve our  
3 conceptual understanding of global climate change  
4 and physical, chemical, and biological dynamics of  
5 the ocean and coastal and Great Lakes environ-  
6 ments.

7 (4) Institutionalize coordinated programs of  
8 public outreach, education, and training—

9 (A) to enhance public understanding of the  
10 ocean, coastal and Great Lakes environment,  
11 the influence and effects of global climate  
12 change on the coastal and ocean environment;  
13 and

14 (B) to promote greater public awareness  
15 and stewardship of the Nation’s ocean, coastal,  
16 and Great Lakes resources.

17 (c) DEFINITIONS.—In this section:

18 (1) COUNCIL.—The term “Council” means the  
19 National Ocean Research Leadership Council re-  
20 ferred to in section 7902 of title 10, United States  
21 Code.

22 (2) ADMINISTRATOR.—The term “Adminis-  
23 trator” means the Administrator of the National  
24 Oceanic and Atmospheric Administration.

1           (3) FEDERAL ASSETS.—The term “Federal as-  
2       sets” means all relevant non-classified civilian coast-  
3       al and ocean observations, technologies, and related  
4       modeling, research, data management, basic and ap-  
5       plied technology research and development, and pub-  
6       lic education and outreach programs, that are man-  
7       aged by member agencies of the Council.

8           (4) NON-FEDERAL ASSETS.—The term “non-  
9       Federal assets” means all relevant coastal and ocean  
10      observations, technologies, related basic and applied  
11      technology research and development, and public  
12      education and outreach programs managed through  
13      States, regional organizations, universities, non-  
14      governmental organizations, or the private sector.

15          (5) REGIONAL INFORMATION COORDINATION  
16      ENTITIES.—

17           (A) IN GENERAL.—The term “Regional In-  
18      formation Coordination Entity”, subject to sub-  
19      paragraphs (B) and (C), means an organiza-  
20      tional body that is certified or established by  
21      the lead Federal agency designated in sub-  
22      section (d)(3)(C)(iii) and coordinating State,  
23      Federal, local, and private interests at a re-  
24      gional level with the responsibility of engaging  
25      the private and public sectors in designing, op-



erating, and improving regional coastal and ocean observing systems in order to ensure the provision of data and information that meet the needs of user groups from the respective regions.

(B) INCLUDED ASSOCIATIONS.—Such term includes Regional Associations as described by the System Plan.

(C) LIMITATION.—Nothing in this section shall be construed to invalidate existing certifications, contracts, or agreements between Regional Associations and other elements of the System.

(6) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(7) SYSTEM.—The term “System” means the National Integrated Coastal and Ocean Observation System established under subsection (d).

(8) SYSTEM PLAN.—The term “System Plan” means the plan contained in the document entitled “Ocean.US publication #9, The First Integrated Ocean Observing System (IOOS) Development Plan”.

(9) INTERAGENCY WORKING GROUP.—The term “Interagency Working Group” means the Inter-

1 agency Working Group on Ocean Observations as es-  
2 tablished by the U.S. Ocean Policy Committee Sub-  
3 committee on Ocean Science and Technology pursu-  
4 ant to Executive Order 13366 signed December 17,  
5 2004.

6 (d) NATIONAL INTEGRATED COASTAL AND OCEAN  
7 OBSERVING SYSTEM.—

8 (1) ESTABLISHMENT.—The President, acting  
9 through the Council, shall establish a National Inte-  
10 grated Coastal and Ocean Observation System to  
11 fulfill the purposes set forth in subsection (b) and  
12 the System plan and to fulfill the Nation's inter-  
13 national obligations to contribute to the global earth  
14 observation system of systems and the global ocean  
15 observing system.

16 (2) SUPPORT OF PURPOSES.—The head of each  
17 agency that is a member of the Interagency Working  
18 Group shall support the purposes of this section.

19 (3) AVAILABILITY OF DATA.—The head of each  
20 Federal agency that has administrative jurisdiction  
21 over a Federal asset shall make available data that  
22 are produced by that asset and that are not other-  
23 wise restricted for integration, management, and dis-  
24 semination by the System.

1           (4) ENHANCING ADMINISTRATION AND MAN-  
2           AGEMENT.—The head of each Federal agency that  
3           has administrative jurisdiction over a Federal asset  
4           may take appropriate actions to enhance internal  
5           agency administration and management to better  
6           support, integrate, finance, and utilize observation  
7           data, products, and services developed under this  
8           section to further its own agency mission and re-  
9           sponsibilities.

10          (5) PARTICIPATION IN REGIONAL INFORMATION  
11          COORDINATION ENTITY.—The head of each Federal  
12          agency that has administrative jurisdiction over a  
13          Federal asset may participate in regional informa-  
14          tion coordination entity activities.

15          (6) NON-FEDERAL ASSETS.—Non-Federal as-  
16          sets shall be coordinated by the Interagency Work-  
17          ing Group or by Regional Information Coordination  
18          Entities.

19          (e) POLICY OVERSIGHT, ADMINISTRATION, AND RE-  
20          GIONAL COORDINATION.—

21          (1) NATIONAL OCEAN RESEARCH LEADERSHIP  
22          COUNCIL.—The National Ocean Research Leader-  
23          ship Council shall be responsible for establishing  
24          broad coordination and long-term operations plans,  
25          policies, protocols, and standards for the System

1 consistent with the policies, goals, and objectives  
2 contained in the System Plan, and coordination of  
3 the System with other earth observing activities.

4 (2) INTERAGENCY WORKING GROUP.—The  
5 Interagency Working Group shall, with respect to  
6 the System, be responsible for—

7 (A) implementation of operations plans  
8 and policies developed by the Council;

9 (B) development of an annual coordinated,  
10 comprehensive System budget;

11 (C) identification of gaps in observation  
12 coverage or needs for capital improvements of  
13 both Federal assets and non-Federal assets;

14 (D) establishment of data management  
15 and communication protocols and standards;

16 (E) establishment of required observation  
17 data variables;

18 (F) development of certification standards  
19 for all non-Federal assets or Regional Informa-  
20 tion Coordination Entities to be eligible for in-  
21 tegration into the System; and

22 (G) periodically review and recommned to  
23 the Council revisions to the System plan.

24 (3) LEAD FEDERAL AGENCY.—The Secretary,  
25 acting through the Administrator, shall function as

1 the lead Federal agency for the System. The Sec-  
2 retary, through the Administrator, may establish an  
3 Interagency Program Coordinating Office to facili-  
4 tate the Secretary's responsibilities as the lead Fed-  
5 eral agency for System oversight and management.  
6 The Administrator shall—

7 (A) implement policies, protocols, and  
8 standards established by the Council and dele-  
9 gated by the Interagency Working Group;

10 (B) promulgate regulations to integrate  
11 the participation of non-Federal assets into the  
12 System and enter into and oversee contracts  
13 and agreements with Regional Information Co-  
14 ordination Entities to effect this purpose;

15 (C) implement a competitive funding proc-  
16 ess for the purpose of assigning contracts and  
17 agreements to Regional Information Coordina-  
18 tion Entities;

19 (D) certify or establish Regional Informa-  
20 tion Coordination Entities to coordinate State,  
21 Federal, local, and private interests at a re-  
22 gional level with the responsibility of engaging  
23 private and public sectors in designing, oper-  
24 ating, and improving regional coastal and ocean  
25 observing systems in order to ensure the provi-

1 sion of data and information that meet the  
2 needs of user groups from the respective re-  
3 gions;

4 (E) formulate a process by which gaps in  
5 observation coverage or needs for capital im-  
6 provements of Federal assets and non-Federal  
7 assets of the System can be identified by the  
8 Regional Information Coordination Entities, the  
9 Administrator, or other members of the System  
10 and transmitted to the Interagency Working  
11 Group;

12 (F) be responsible for the coordination,  
13 storage, management, and communication of  
14 observation data gathered through the System  
15 to all end-user communities;

16 (G) subject to the availability of appropria-  
17 tions and pursuant to procedures adopted by  
18 the Administrator after consultation with the  
19 working group and the system advisory panel,  
20 implement a competitive matching grant or  
21 other grant program to promote research and  
22 development of innovative and new observation  
23 technologies, including testing and field trials;

24 (H) implement a program of public edu-  
25 cation and outreach to improve public aware-

1           ness of global climate change and effects on the  
2           ocean, coastal, and Great Lakes environment;  
3           and

4           (I) report annually to the Council through  
5           the Interagency Working Group on the accom-  
6           plishments, operational needs, and performance  
7           of the System to achieve the purposes of this  
8           Act and the System plan.

9           (4) REGIONAL INFORMATION COORDINATION  
10          ENTITY.—To be certified or established under para-  
11          graph (3)(D), a Regional Information Coordination  
12          Entity must be certified or established by contract  
13          or agreement by the Administrator, and must agree  
14          to—

15               (A) gather required System observation  
16               data and other requirements specified under  
17               this section and the System plan;

18               (B) identify gaps in observation coverage  
19               or needs for capital improvements of Federal  
20               assets and non-Federal assets of the System,  
21               and transmit such information to the Inter-  
22               agency Working Group via the Administrator;

23               (C) demonstrate an organizational struc-  
24               ture and strategic operational plan to ensure  
25               the efficient and effective administration of pro-

grams and assets to support daily data observations for integration into the System;

(D) comply with all financial oversight requirements established by the Administrator, including requirements relating to audits; and

(E) demonstrate a capability to work with other governmental and nongovernmental entities at all levels to identify and provide information products of the System for multiple users within the service area of the Regional Information Coordination Entities and otherwise.

(5) SYSTEM ADVISORY PANEL.—The Secretary, through the Administrator, may establish and appoint an advisory panel to advise the Council on the operations, management, and needs of the System. The appointment of this panel shall be done in consultation with the Interagency Working Group. Panel membership shall be broadly representative of all stakeholders and the user community of the System.

(6) CIVIL LIABILITY.—For purposes of determining liability arising from the dissemination and use of observation data gathered pursuant to this section, any non-Federal asset or Regional Information Coordination Entity that is certified under



1 paragraph (3)(D) and that is participating in the  
2 System shall be considered to be part of the Na-  
3 tional Oceanic and Atmospheric Administration. Any  
4 employee of such a non-Federal asset or Regional  
5 Information Coordination Entity, while operating  
6 within the scope of his or her employment in car-  
7 rying out the purposes of this section, with respect  
8 to tort liability, is deemed to be an employee of the  
9 Federal Government.

10 (f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,  
11 AND AGREEMENTS.—

12 (1) IN GENERAL.—The member departments  
13 and agencies of the Council, subject to the avail-  
14 ability of appropriations, may participate in inter-  
15 agency financing and share, transfer, receive, obli-  
16 gate, and expend funds appropriated to any member  
17 agency for the purposes of carrying out any adminis-  
18 trative or programmatic project or activity to further  
19 the purposes of this section, including support for  
20 the Interagency Working Group, the Interagency Co-  
21 ordinating Program Office, a common infrastruc-  
22 ture, and integration to expand or otherwise enhance  
23 the System.

24 (2) JOINT CENTERS AND AGREEMENTS.—Mem-  
25 ber Departments and agencies of the Council shall

1 have the authority to create, support, and maintain  
2 joint centers, and to enter into and perform such  
3 contracts, leases, grants, cooperative agreements, or  
4 other transactions as may be necessary to carry out  
5 the purposes of this section and fulfillment of the  
6 System Plan.

7 (g) APPLICATION WITH OTHER LAWS.—Nothing in  
8 this section supersedes or limits the authority of any agen-  
9 cy to carry out its responsibilities and missions under  
10 other laws.

11 (h) REPORT TO CONGRESS.—Two years after the  
12 date of enactment of this Act, and biennially thereafter,  
13 the Secretary through the Council shall submit to the Con-  
14 gress a report on the performance of the System, achieve-  
15 ment of the purposes and objectives of this section and  
16 the System plan, and recommendations for operational im-  
17 provements to enhance the efficiency, accuracy, and over-  
18 all capability of the System.

19 **SEC. 465. NOAA REPORT ON CLIMATE CHANGE EFFECTS;**  
20 **PREPARATION ASSISTANCE.**

21 The Coastal Zone Management Act of 1972 (16  
22 U.S.C. 1451 et seq.) is amended by adding at the end  
23 the following:

24 “REPORT ON EFFECTS OF CLIMATE CHANGE

25 “SEC. 320. (a) IN GENERAL.—The Secretary shall  
26 report to the Congress not later than 2 years after the

1 date of enactment of this section, and every 5 years there-  
2 after, on the possible and projected impacts of climate  
3 change on—

4 “(1) oceanic and coastal ecosystems, including  
5 marine fish and wildlife and their habitat, and the  
6 commercial and recreational fisheries and tourism  
7 industries associated with them; and

8 “(2) coastal communities, including private resi-  
9 dential and commercial development and public in-  
10 frastructure in the coastal zone.

11 “(b) CONTENTS.—Each report under this section  
12 shall include information regarding—

13 “(1) the impacts that may be due to climate  
14 change that have occurred as of the date of the sub-  
15 mission of the report; and

16 “(2) the projected future impacts of climate  
17 change.

18 “(c) IMPACTS.—The impacts reported on under sub-  
19 section (b) shall include any—

20 “(1) increases in sea level;

21 “(2) increases in storm activity and intensity;

22 “(3) increases in floods, droughts, and other ex-  
23 tremes of weather;

24 “(4) increases in the temperature of the air and  
25 the water on oceanic and coastal ecosystems, with a

1 particular focus on vulnerable fisheries and eco-  
2 systems; and

3 “(5) changes in the acidity of the ocean surface  
4 associated with an increase in concentration of car-  
5 bon dioxide in the atmosphere.”.

○